

EXHIBIT II

to

PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Civil Action No.: 1:10-cv-00986-JFA

*Transcript from deposition of Margo Hein-
Muniz*

Margo Hein-Muniz, M.D. 8/25/2011

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 AIKEN DIVISION
4 MARGO J. HEIN-MUNIZ, M.D. AND
5 PARKSIDE MEDICAL CONSULTANTS, LLC,
6 D/B/A MAGNOLIA MEDICAL,
7 Plaintiff(s),
8 vs. Case No.: 1:10-CV-00986-MBS
9 AIKEN REGIONAL MEDICAL CENTERS,
10 UNIVERSAL HEALTH SERVICES, INC.,
11 AIKEN OBSTETRICS & GYNECOLOGY ASSOCIATES,
12 P.A., CARLOS A. MILANES, K.D. JUSTYN,
13 OLETHA R. MINTO, M.D., JAMES F. BOEHNER,
14 M.D., ROBERT D. BOONE, M.D., JONATHAN H.
15 ANDERSON, M.D., AND THOMAS P. PAXTON, M.D.,
16 Defendant(s).
17 ** THIS DEPOSITION CONTAINS CONFIDENTIAL INFORMATION **
18 D E P O S I T I O N
19 WITNESS: MARGO J. HEIN-MUNIZ, M.D.
20 DATE: Thursday, August 25, 2011
21 TIME: 4:28 p.m.
22 LOCATION: Sowell, Gray, Stepp & Laffitte
23 1310 Gadsden Street
24 Columbia, South Carolina
25 TAKEN BY: Attorneys for the Defendants
REPORTED BY: SHERI L. BYERS
Registered Professional Reporter

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1 STIPULATION: It is stipulated by and between
2 Counsel that this deposition is being taken in
3 accordance with the Federal Rules of Civil Procedure,
4 and that the deponent reserves the right to read and
5 sign the deposition transcript.
6 -----
7 MARGO J. HEIN-MUNIZ, M.D., being
8 first duly sworn, testified as follows:
9 EXAMINATION
10 BY MR. DAYHUFF:
11 Q. Dr. Muniz, my name is Travis Dayhuff. We met
12 a moment ago, but for the record, I'm here on behalf of
13 the defendants in this case.
14 Do you understand that?
15 A. Yes.
16 Q. Good. The rules require me to give you some
17 instructions before we begin, the Federal Rules of Civil
18 Procedure, so I'll run through those.
19 You may hear some objections to the form of
20 my question today from your counsel. If they want to
21 make an objection to my question, you need to pause your
22 answer and allow them to enter the objection, and then
23 you answer.
24 Do you understand that?
25 A. Correct.

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1 APPEARANCES:
2 ATTORNEYS FOR THE PLAINTIFFS
3 MARGO J. HEIN-MUNIZ, M.D. AND
4 PARKSIDE MEDICAL CONSULTANTS, LLC,
5 D/B/A MAGNOLIA MEDICAL:
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1 Q. The only exception to that would be if your
2 counsel instructs you not to answer, and then you
3 wouldn't answer.
4 Do you understand that?
5 A. Yes.
6 Q. Good. If you need any breaks during the
7 deposition, we can certainly take them. However, you
8 are not to discuss the substance of your testimony
9 during breaks with your counsel or anyone else.
10 Do you understand that?
11 A. Yes.
12 Q. Good. If you don't understand one of my
13 questions -- that will certainly happen, that I will be
14 inartful in how I phrase a question at some point --
15 you need to ask me for clarification or explanation
16 rather than your counsel.
17 Do you understand that?
18 A. Yes.
19 Q. Good. Generally speaking, the outline for
20 this deposition, I'm going to ask you some background
21 information, not some, probably a lot of background
22 information, understand who you are, your practice, your
23 work history, that kind of thing. Then I'm going to
24 talk a lot about the two peer review actions that appear
25 to me to be the heart of this case. I'll probably then

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1 finish with some discussions about the documents that
 2 I've received and other stuff that I've received prior
 3 to today. Does that make sense?
 4 A. Yes.
 5 Q. Good. Preliminarily, I imagine you had time
 6 to consult with your attorneys before this deposition.
 7 A. Yes.
 8 Q. Okay. I don't want to know what you talked
 9 about, but how much time did you spend preparing for
 10 this deposition with your attorneys today?
 11 A. How much time did I -- rephrase the question.
 12 Q. How much time did you prepare with your
 13 attorney -- how much time did you spend with your
 14 attorneys preparing for this deposition today?
 15 A. Today? The hour we waited for you.
 16 Q. Okay. And I understand that you may have met
 17 with them yesterday as well; is that correct? That
 18 would have been Wednesday. Maybe not.
 19 A. It was either Tuesday or Wednesday.
 20 Q. And did you spend that time preparing for the
 21 deposition or for some other purpose?
 22 A. Reviewing and preparing for the deposition.
 23 Q. Okay. And about how long was that?
 24 A. I'd say a couple or three hours, maybe more.
 25 Q. Did you talk to anyone else other than your

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1 A. Correct.
 2 Q. The 2010 hearing; is that correct?
 3 A. Correct.
 4 Q. Good.
 5 All right. Anything else?
 6 A. No.
 7 Q. It looked like, and I may be wrong, that you
 8 produced to me -- well, I don't know what's in there,
 9 but previous to today, a lot of the K.C. medical record.
 10 Is that right? Or do you know? Produced to me as in
 11 your counsel sent it to me. Do you know anything about
 12 that? You may not.
 13 A. I don't know anything about that.
 14 Q. Okay. I was going to ask you why you sent
 15 that back to me, and then I was going to ask you if
 16 there was an additional part of that medical record that
 17 maybe you had that I didn't have or something like that.
 18 But you don't know anything about that. Fine.
 19 Okay. Background information. What's your
 20 date of birth?
 21 A. 09-02-1965.
 22 Q. Okay. Place of birth?
 23 A. Geneva, Illinois.
 24 Q. Current address?
 25 A. 170 Waters, separate word, Edge, Drive, Aiken

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1 counsel in preparation for this deposition today?
 2 A. No.
 3 Q. All right. Let's see. Did you review any
 4 documents in preparation for this deposition, you
 5 yourself that you thought would be important?
 6 A. Yes.
 7 Q. Okay. What did you review?
 8 A. I reviewed the last patient's chart.
 9 Q. All right. And for the record, that is K.
 10 Crane; is that right?
 11 A. Yeah, K.C.
 12 Q. K.C. All right.
 13 MR. SOWELL: We'll just call her K.C.
 14 MR. DAYHUFF: K.C. I got it.
 15 BY MR. DAYHUFF:
 16 Q. You reviewed that medical record, is that
 17 what I understood you to say?
 18 A. Yes. I briefly ran through the entire
 19 document.
 20 Q. Okay. Anything else? Go ahead.
 21 A. Specifically the trial or peer review.
 22 Q. I'll bet that's the Fair Hearing Exhibit
 23 Book; is that what that is?
 24 A. Correct. The one provided by the hospital.
 25 Q. And that's the one for 2010?

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1 South Carolina 29803.
 2 Q. And how long have you been residing at that
 3 address?
 4 A. Approximately ten years.
 5 Q. Okay. What's your practice's address?
 6 A. My practice's address is Suite 2300, at 410
 7 University Parkway, Aiken, South Carolina 29801. And it
 8 has a P.O. Box 2037.
 9 Q. 2037. Does your practice have an e-mail
 10 address?
 11 A. Magnoliamedical@bellsouth.net.
 12 Q. Do you have a personal e-mail address?
 13 A. Margomuniz@gmail.com.
 14 Q. And has that practice address -- how long
 15 have you had that practice address that you just gave to
 16 me? A long time?
 17 A. We've been probably up in that suite for,
 18 let's see, I'm going to go with -- we have been up there
 19 for Katrina Crane, we've been up there for the thing
 20 before that, probably since 2007.
 21 Q. Okay.
 22 A. 2008. I can't remember.
 23 Q. Your best estimate is fine. 2007 or 2008,
 24 your practice has been located in Suite 2300 of the
 25 address you previously provided?

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1 A. Yes.

2 Q. Good. Your e-mail address,

3 magnoliamedical@bellsouth.net, how long has that been

4 your e-mail for your practice?

5 A. Seven years, give or take.

6 Q. How long has margomuniz@gmail.com been your

7 personal e-mail address?

8 A. One and a half to two years.

9 Q. What was your prior e-mail address, personal?

10 Do you recall?

11 A. Margomuniz@atlanticbroadband, I believe

12 they're a dot com.

13 Q. And you had that e-mail address for going

14 back in time?

15 A. Maybe about a year and a half to two years.

16 Q. Okay. Do you communicate via e-mail? Let's

17 start with your personal e-mail address.

18 A. To whom?

19 Q. Some people use e-mail, some people don't use

20 e-mail. Do you generally use e-mails as a means of

21 communication?

22 A. Yes.

23 Q. All right. Would you characterize yourself

24 as a frequent user of e-mails, infrequent?

25 A. I would characterize myself in between

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1 infrequent and medium.

2 Q. All right. Infrequent and medium. And

3 roughly would that be, you know, you e-mail every day,

4 you e-mail a couple of times a week, what would --

5 A. I don't e-mail so much as I receive and read

6 e-mails.

7 Q. Okay. You receive and read e-mails every

8 day?

9 A. No.

10 Q. No. Every other day?

11 A. Probably every third to fourth day.

12 Q. Okay. And send e-mails every four days, five

13 days?

14 A. About three to four days if they need a

15 response.

16 Q. Okay.

17 A. Or if they need forwarding.

18 Q. Do you send and receive -- do you utilize

19 your practice's e-mail to send and receive e-mails?

20 A. No.

21 Q. No. Okay. Who would use that?

22 A. My office manager.

23 Q. Do you ever send or receive -- do you ever

24 send e-mails through your practice e-mail?

25 A. My personal, do I personally?

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1 Q. Yeah, do you personally?

2 A. No.

3 Q. Okay. Your education. Did your undergrad

4 where?

5 A. I won a scholarship to Perdue University --

6 Q. Okay.

7 A. -- for pharmacology and pharmacognosy. And

8 it was a full tuition scholarship for all six years.

9 Q. Good. You came out of Perdue with what, an

10 M.S. in something?

11 A. I came out of Perdue with a --

12 Q. Or a B.S., rather?

13 A. Yes, a B.S. in pharmacology and pharmacy.

14 And a subspecialty in nuclear medicine/nuclear pharmacy

15 certification.

16 Q. All right. And then you went to med school?

17 is that right?

18 A. No, sir.

19 Q. You worked some in the pharmacy?

20 A. I worked for Hawthorn -- well, for

21 Medi-Physics which became Hawthorn, for Roche which

22 became Amersham International, for a period of

23 approximately five to six years in Chicago, Illinois, as

24 a nuclear pharmacist and then subsequently as the lead

25 pharmacist.

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1 Q. Okay. And after five or six years, you went

2 back to med school?

3 A. Correct.

4 Q. Did you leave your pharmacy career on good

5 terms with your employer?

6 A. Yes.

7 Q. Med school, where did you go to med school?

8 A. I went to med school at Springfield, Southern

9 Illinois University Med School.

10 Q. The fighting Salukies?

11 A. I don't know if they fight, but they're

12 Salukies.

13 Q. Actually, they're racing dogs, aren't they?

14 A. Yes. They're an Egyptian a racing hound.

15 Q. I should not have imputed the fighting to

16 them.

17 A. They don't fight, by the way. They just

18 blush.

19 Q. All right. Southern Illinois. What year was

20 that you went to med school? So walk back through your

21 life.

22 A. Wow. Okay. Let's see how old am I? I want

23 to say that I got out of med school in 1997. I'd have

24 to look at my curriculum vitae to make sure that's a

25 hundred percent, but I want to say 1997. I was in the

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1 problem-based learning tract.

2 Q. So you got out of med school in '97, is that

3 what you said, or you went to med school in '97?

4 A. I want to say from '93 to '97 I was in med

5 school.

6 Q. After med school, did you do a residency?

7 A. I did.

8 Q. Okay. Where did you do your residency?

9 A. I did my first two years, I stayed at

10 Springfield.

11 Q. Okay. And what specialty was your residency?

12 A. OB/GYN.

13 Q. Okay. And you completed that residency?

14 A. I did the third and fourth year out here at

15 Palmetto Richland.

16 Q. Okay.

17 A. Columbia, South Carolina. Years three and

18 four.

19 Q. All right. How did you come to start a

20 residency at Springfield and finish at Palmetto

21 Richland? Is that some sort of a program they had to go

22 out and --

23 A. No, sir. I found out that Dr. Stephen

24 Cruickshank was taking over the chairmanship of the

25 program at Palmetto Richland. And he's one of the

Page 15

1 to me.

2 Q. Okay. Because of the peer review suspension

3 and revocation in 2010?

4 A. Because of the damages that I have incurred

5 in an effort to support my family.

6 Q. Okay.

7 A. And children.

8 Q. So you recertified as a pharmacist. Does

9 that mean -- I'm not sure what that means. Does that

10 mean you make your license active again?

11 A. You reactivate.

12 Q. So you have a South Carolina pharmacy license

13 now?

14 A. You reactivate in your home state, which was

15 Illinois.

16 Q. Right.

17 A. And then -- the procedure it's called

18 reciprocation, and I'm reciprocating in South Carolina

19 and Georgia. And I still have to complete my final

20 examinations in both of those states.

21 Q. All right. And so what date did you achieve

22 reactivation in Illinois or approximate date?

23 A. Last year.

24 Q. Okay. 2010?

25 A. In the late -- late part of the year.

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1 leading physicians in the field of urogynecology, of

2 which I had a special interest, and I wanted to train

3 underneath him. The program had lost a third-year

4 resident. I came out and interviewed for the position,

5 along with several other residents, and I got the job.

6 Q. Okay. And when did you finish your

7 residency? I think you started Aiken in 2001.

8 A. Yeah. So it would have been right before --

9 right before that. I finished in June, and I started

10 working, I want to say that September. August or

11 September.

12 Q. Okay. All right. Any other formal education

13 that we haven't hit? I imagine you do CMEs, which I

14 don't need to hear about. But any other major formal

15 education?

16 A. I've done several preceptorships with

17 Dr. Mattox and with Dr. Cruickshank, learning special

18 techniques in urogynecology. I've been sent to

19 laparoscopy courses by drug companies to do laparoscopy,

20 pigs who were asleep, and learn new surgical techniques.

21 I have recently recertified as a pharmacist, so I had to

22 complete about ten years of continuing education for

23 that.

24 Q. Why did you recertify as a pharmacist?

25 A. Because of the events of which have happened

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1 Q. Was that -- did you reactivate before or

2 after the conclusion of the most recent peer review

3 action at ARMC?

4 A. After.

5 Q. After. All right. And when do you expect

6 you'll be able to reciprocate South Carolina and

7 Georgia, you need to take the law exam?

8 A. I have to take the law exam in both places.

9 Q. Is that coming up soon?

10 A. I have to schedule it. I've registered.

11 They'll assign me a date within the next two to three

12 months.

13 Q. Okay. And once you get your license active

14 in South Carolina, do you intend to practice?

15 A. I intend to practice part-time.

16 Q. All right. And in what pharmacy capacity

17 would that be?

18 A. I would probably practice in compounding

19 pharmacy, retail.

20 Q. And is there one in particular or are there

21 compounding pharmacies in Aiken?

22 A. There's several compounding pharmacies in

23 Aiken. You have to train. You have to have a

24 supervising pharmacist for a year in the state of

25 South Carolina.

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1 Q. All right. Okay. So you work with a
2 pharmacist for a year as a assistant?
3 A. No. More like --
4 Q. Protege?
5 A. Protege.
6 Q. Okay. All right. Do you have any idea what
7 you would make as a part-time compounding pharmacist?
8 An estimate would be fine.
9 A. Well, I already work two jobs trying to make
10 up for the financial losses, so I would work on the
11 weekends, probably eight hours each. I would imagine
12 that --
13 Q. I imagine they would pay you hourly, wouldn't
14 they?
15 A. Yes. So that would be 16 hours a weekend.
16 And the average starting pharmacist, my understanding,
17 at least, is about 120. So whatever that divides out to
18 be.
19 Q. 16 hours at 120 an hour?
20 A. No. No, sir. The average full-time
21 pharmacist makes between 120 to 150 is what I've been
22 told by other pharmacists. So whatever the hourly rate
23 would break down.
24 Q. Okay. Maybe I'm tired, confused. What
25 hourly rate do you expect you will receive?

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1 Did you take on that activity as a result of
2 the peer review suspension revocation?
3 A. Yes.
4 Q. Okay. And how much do you receive?
5 A. \$125 an hour.
6 Q. And how many hours do you work a week? Or
7 however you want to quantify it for me.
8 A. I work Monday through Thursdays,
9 approximately from 5:00 in the morning to 7:00. So
10 about two hours a day.
11 Q. Okay. All right. And do you have a -- let's
12 see, do you have an ownership interest in this methadone
13 clinic?
14 A. No.
15 Q. No. So you are --
16 A. A subcontractor employee.
17 Q. Okay. Who owns the methadone clinic?
18 A. Brent Brady. B-r-a-d-y.
19 Q. Okay. Do you have any written agreements or
20 contract, like what you do in consideration --
21 A. It's a gentleman's agreement.
22 Q. Okay. So you receive a 1099 from Brent Brady
23 or his corporate entity?
24 A. His corporate entity.
25 Q. Okay. Is that money that you make as the

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1 A. Does anybody have a calculator?
2 Q. It will be somewhere between 120 and 150?
3 MR. DICK: She's saying 120,000 a year.
4 Whatever the breakdown of the hourly that would be.
5 THE WITNESS: Divided by 52 divided by 40
6 hours a week. I do not know what the hourly rate would
7 be. Significantly less than a physician.
8 MR. DAYHUFF: Okay. I was missing the
9 crucial year part of it.
10 BY MR. DAYHUFF:
11 Q. Okay. You mentioned you're working two jobs
12 currently to make up for the damages that you allege
13 you've suffered. What are the two jobs?
14 A. I work my main clinic, which is Magnolia
15 Medical. And I'm also the medical director of a
16 methadone clinic in Aiken.
17 Q. Okay. Those are your two jobs. And --
18 A. I'm sorry. In terms of education, I had to
19 get certified with DHEC and government bodies that do
20 addiction medicine.
21 Q. Okay. When did you begin your work as
22 medical director of the methadone clinic?
23 A. I'm going to estimate around October to
24 December of last year.
25 Q. October, December of 2010.

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1 medical director of that methadone clinic, is that run
2 in any way through your Magnolia Medical --
3 A. No.
4 Q. -- LLC?
5 A. No.
6 Q. Separate and apart?
7 A. Correct.
8 Q. Okay. Where is this methadone clinic
9 located?
10 A. Suite 1560 in the same medical building, 410
11 University Parkway, South Carolina.
12 Q. Okay. And is this the suites -- we were
13 talking about your suite and talking about this suite.
14 Is this the medical office building that's relatively
15 close to the Aiken Regional Medical Center?
16 A. Yes.
17 Q. Suite 1560, was that a suite that you had
18 control over before this became a methadone clinic?
19 A. Yes.
20 Q. Yes. Okay. So you rented that suite from --
21 A. We own that suite.
22 Q. You own that suite. Okay.
23 Now, you are renting to Brent Brady's
24 corporate entity?
25 A. Correct.

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1 Q. All right. There's a lease that reflects
2 that?
3 A. He intends to purchase the facility.
4 Q. Okay.
5 A. We've had it up for sale.
6 Q. All right. Do you have an agreement in
7 principle of when he's going to purchase this unit?
8 A. Yes, but I don't know the details of that.
9 The business matters are usually run by my husband.
10 Q. And your husband's name is?
11 A. Felix, F-e-l-i-x, Muniz.
12 Q. Do you happen to know how much or
13 approximately how much Brent Brady will pay you for
14 Suite 1560?
15 A. I don't.
16 Q. How much did you pay for Suite 1560?
17 A. I don't know.
18 Q. Okay. You mentioned your husband. How long
19 have you been married?
20 A. 20 years.
21 Q. Wow. And Mr. Muniz, does he have -- is he
22 employed? Does he have a profession? What does he do?
23 A. He's a professional financial adviser.
24 Q. Okay. I think you mentioned he handles a lot
25 of the finances. Does he handle the finances for your

Page 23

1 18 now.
2 Q. Okay. Both are 18?
3 A. They're a set of twins. Slightly used twins.
4 Q. Do your twins still live with you?
5 A. My daughter lives up in Chicago.
6 Q. Okay.
7 A. My son still lives at home.
8 Q. All right.
9 A. And he's going to college now.
10 Q. Okay. Where is he going to college?
11 A. At Aiken Tech.
12 Q. Do you support your son and daughter still,
13 financially?
14 A. I support my son. I've stopped supporting my
15 daughter.
16 Q. Okay. All right. Any prior marriages before
17 Felix?
18 A. No.
19 Q. Okay. We've talked about medical director,
20 we've talked about what you are going to do with
21 pharmacy, and your other job is Magnolia Medical, your
22 OB/GYN practice; is that correct?
23 A. Correct. And I'm a professional speaker, for
24 what it's worth.
25 Q. All right. And what do you -- tell me a

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1 practice, Magnolia Medical?
2 A. The main finances are handled by my office
3 manager and my accountants, The Hobbs Group. His role
4 is strictly as financial adviser to analyze the
5 practice, run pro formas, answer questions.
6 Q. Okay. Does he have any financial
7 certifications?
8 A. He has multiple certifications. He has an
9 MBA in business. He has a Series 7, a Series 8, and a
10 couple of other things that I don't understand.
11 Q. Okay. Where did he get his MBA?
12 A. He did undergraduate work through Aiken Tech,
13 and then he did part of it through, I want to say
14 University of Arizona online.
15 Q. How long has he been an MBA? Approximately,
16 if you don't know for sure.
17 A. I'm going to approximate about four years.
18 Q. Okay. All right.
19 A. Maybe longer.
20 Q. That's okay. Your best estimate as you sit
21 here.
22 Do you have any children?
23 A. We have two adopted children.
24 Q. Okay. How old are they?
25 A. We adopted them when they were 12. They're

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1 little about that. What does that mean?
2 A. To be hired by specific drug companies to
3 educate other physicians regarding medications.
4 Q. All right.
5 A. I get an occasional speaking engagement,
6 where they'll hire me.
7 Q. Is that because of your OB/GYN background or
8 because of your pharmacy background?
9 A. Both.
10 Q. Both. Okay. How much do you make a year as
11 a professional speaker? I imagine it varies year to
12 year, but if you can give me a rough estimate.
13 A. Not a whole lot. Certainly under 5,000.
14 Q. Okay. All right. Any other work that you
15 do? Professional speaker, director of the methadone
16 clinic.
17 A. Besides running a household, no.
18 Q. Running the household. Good. Okay.
19 Felix must help some with that?
20 A. Absolutely. He's a wonderful man.
21 Q. Excellent.
22 All right. You have a South Carolina medical
23 license, I presume?
24 A. Yes, sir.
25 Q. Do you have a medical license in any other

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1 state?

2 A. I have a medical license in Georgia.

3 Q. Okay. And is both your South Carolina and

4 your Georgia medical license fully active at this time?

5 A. Yes.

6 Q. All right. Have you reported the result of

7 the peer review action at ARMC to either South Carolina

8 or Georgia's board of --

9 A. You're required to, yes.

10 Q. Do you know whether or not they've started an

11 investigation regarding the report that you made?

12 A. I had to -- I was not queried by Georgia. I

13 had to produce an explanation to the head committee of

14 the medical board and in order to maintain my medical

15 license.

16 Q. Is it your understanding -- what's your

17 understanding of the status of the South Carolina

18 investigation? Is it closed? Is it still open?

19 A. It will be reevaluated every year for as long

20 as this event continues or until my name is cleared.

21 Q. All right. But at this time you are under no

22 sanction from the South Carolina Board of Medicine?

23 A. No.

24 Q. No sanction from the Georgia Board of

25 Medicine as a result of this action?

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1 Q. What was the end result of that appeal?

2 A. Eventually, through the grace of God, it was

3 released. And I'm allowed this year to take my mock

4 exams and continue to be board certified. And that,

5 too, will be reassessed every year as long as this is

6 whatever, pending.

7 Q. Okay. Why do you think that it will be

8 reassessed every year? Did they tell you that?

9 A. Yes.

10 Q. And what will you have to do as part of that

11 reassessment every year?

12 A. I don't know because I haven't done it.

13 Q. Okay. Did Mr. Dick and Mr. Sowell assist you

14 in your appeal of the ABOG?

15 A. Yes.

16 Q. Okay. Good. Any other certifications that

17 you have other than ABOG? I don't know if there are any

18 other certifications that you would have. Do you have

19 any through your pharmacy?

20 A. Basic life support. I carry a category X

21 prescription license because of the training I had to go

22 through for the methadone addiction. And that's through

23 the American Academy of Addictive Psychiatry and through

24 DHEC.

25 Q. Okay. Anything other than that?

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1 A. No.

2 Q. Okay. Are you board certified in your OB/GYN

3 specialty?

4 A. I am.

5 Q. All right. And is that the ABOG?

6 A. Yes.

7 Q. And what does that stand for?

8 A. American Board of Obstetrics and

9 Gynecologists.

10 Q. Okay. Did you report the result of the peer

11 review action to ABOG?

12 A. I did.

13 Q. And any adverse result from ABOG as a result

14 of your self-reporting?

15 A. Initially, they told me I would not be

16 allowed to sit for my yearly mock examinations, is what

17 they're called. And so we had to submit a letter of

18 appeal and call in several physicians. I shouldn't say

19 several. A couple of physicians to verify the veracity

20 of --

21 Q. Your submissions?

22 A. -- of my submissions and my continued ability

23 to practice medicine and to comment on their opinion on

24 why I was being subjected to what I was being subjected

25 to.

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1 A. No, sir.

2 Q. All right. Let's talk some about your

3 practice. What is the formal corporate name of your

4 practice, Magnolia Medical Center, LLC?

5 A. Parkside Medical Consultants, LLC.

6 Q. Parkside Medical Consultants, LLC. All

7 right.

8 A. D/B/A Magnolia Medical.

9 Q. All right. What do you call it in your day

10 to day, Magnolia Medical?

11 A. Magnolia Medical.

12 Q. All right. I'll do that in this deposition,

13 and you'll understand that I refer to the LLC. Okay?

14 A. Okay.

15 Q. All right. How long has Magnolia Medical

16 been incorporated, for lack of a better word, formed as

17 an LLC?

18 A. Since we moved in 410, so I'm going to

19 estimate about five to six years.

20 Q. Five to six years. Okay. Who are the -- I

21 assume you are a owner of the LLC; is that right?

22 A. My husband and I are 50 percent owners of

23 Parkside Medical Consultants.

24 Q. Okay. 50/50 owners.

25 Do you know if it's a manager-managed LLC or

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1 a member-managed LLC?

2 A. I have no idea of what you're talking about.

3 Q. I don't have any idea either. David knows,

4 though.

5 Let's see. In the past, have there been

6 other owners of Magnolia Medical? I understand

7 currently you and Felix, 50/50. Have there ever been

8 any other owners?

9 A. No.

10 Q. Okay. Do you own any other business other

11 than publicly-held companies, in whole or in part? You

12 told me about Magnolia Medical.

13 A. Muniz & Muniz Holdings, which is our

14 corporation that owns our properties.

15 Q. Okay. Any other companies?

16 A. No.

17 Q. And you've mentioned that Muniz & Muniz

18 Holdings owns your properties. What properties does

19 M & M Holdings own?

20 A. It owns Suites 1560 and Suite 2300.

21 Q. Anything else?

22 A. I don't know if our house is in that or not,

23 but I don't think so.

24 Q. Okay.

25 A. Once again, I'm not the financial ...

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1 Q. Quite all right. Whatever your understanding

2 of it is fine.

3 Do you know what kind of entity M&M Holdings

4 is?

5 A. No.

6 Q. Okay. LLC or an Inc. or a -- I should have

7 deposited Felix.

8 Okay. Tell me about how your work schedule

9 works now. I imagine things changed a little bit, maybe

10 a lot after the 2010 peer review. But I want to

11 understand how you are currently working as an OB/GYN at

12 Magnolia Medical. It's kind of a broad question, but

13 what I'm looking for is, "Well, I do clinic," or

14 whatever you call your office hours, "from here to here,

15 and then I go wherever." You know, just kind of give me

16 a picture of what your work week looks like.

17 You've already told me about being the

18 medical director and how that works.

19 A. So I get up in the morning, and I do the

20 rehabilitation center first. And then from there I go

21 upstairs, and we usually start working at Magnolia till

22 7:30 -- or starting at 7:30.

23 Q. That's seeing patients in the office?

24 A. Yes, sir.

25 Q. Okay. What's the rehab center?

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1 A. The methadone.

2 Q. Oh, I'm sorry, the methadone. I'm sorry.

3 All right. Go ahead. 7:30, you start seeing

4 patients at Magnolia.

5 A. We take lunch around 12:00 --

6 Q. Okay.

7 A. -- to 1:00. And then we start seeing more

8 office patients until 5:00ish.

9 Q. Okay. And is that Monday through Friday that

10 that schedule is followed?

11 A. Yes. Except for every other Friday, we kind

12 of have a half-mast schedule in the office where people

13 can answer telephones. I have a nurse that answers

14 patient questions and gets caught up on paperwork, and I

15 operate at the surgery center.

16 Q. All right.

17 A. Only minor procedures.

18 Q. You call it the Surgi Center, is that

19 S-u-r-g-i?

20 A. Surgery center.

21 Q. Surgery. Okay.

22 A. Aiken Surgery Center.

23 Q. I saw it written once as Surgi Center. I

24 don't remember who's --

25 A. It may be. I don't know. I can't think of

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1 the legal name of it. I don't know.

2 Q. Surgery center.

3 And that -- you're there a half day every

4 other week?

5 A. Every other Friday.

6 Q. Okay. And what schedule is that, is that

7 from morning until 1:00?

8 A. We're not allowed to operate past 3:00, so

9 I'm usually out of there by 1:00.

10 Q. Okay. Now, that's your current schedule.

11 About how many patients are you seeing at Magnolia

12 Medical between 7:30 and 5:00? I know it probably

13 varies.

14 A. It fluctuates wildly --

15 Q. Yeah.

16 A. -- depending upon the season and whatever.

17 It can be anywhere from 30 to 60.

18 Q. Wow. Okay. And when you are doing your work

19 at the surgery center that half day, how many cases are

20 you doing?

21 A. Three to four.

22 Q. Is that fairly steady?

23 A. Yes.

24 Q. Okay. What kind of cases are you doing at

25 the surgery center currently?

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1 A. I'm only allowed to do minors at the surgery
2 center. All surgery centers only perform what's
3 considered minor procedure.

4 Q. What is the -- give me some sense of what
5 that means. What are minors? Are these GYN or OB, what
6 is this?

7 A. They're gynecologic procedures that are
8 outpatient procedures.

9 Q. All right. And some examples?

10 A. Dilatation curettage, diagnostic laparoscopy,
11 simple cystectomy, bladder cystoscopy, that type of
12 stuff.

13 Q. Okay. If you were to tell me what your top
14 three procedures are based on volume, what would those
15 be at the surgery center?

16 A. Hysteroscopy; polypectomies/myomectomies,
17 meaning to remove growths inside of the uterus;
18 diagnostic laparoscopies to look for endometriosis; and
19 tubal ligations.

20 Q. Okay. Has this peer review action with ARMC,
21 the suspension and revocation, had any effect on what
22 you can do at the surgery center?

23 A. I'm watched much more closely, and I have to
24 have a backup physician willing to cover me in case
25 something happened at the surgery center and accept the

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1 Q. Understood. This watching you more closely
2 that you mentioned, how does that manifest itself at the
3 surgery center?

4 A. It's not vigorous. In the beginning, they
5 were a little bit skittish just because of the political
6 and reputational damage that I had occur or incurred.
7 But mostly they just -- I mean, they know what the real
8 story is, so mostly they leave me alone. I think the
9 nurses are a little bit more nervous because they don't
10 know, like the physicians know, what the situation was.

11 Q. It sounds like, but you correct me if I'm
12 wrong, that this more watchfulness, at least with the
13 physicians, has dissipated over time, is that accurate,
14 at the surgery center?

15 A. I wouldn't say it was elevated astronomically
16 amongst the physicians. I would say that it was more
17 elevated amongst the nursing staff --

18 Q. Okay.

19 A. -- because they weren't at the hospital.

20 Q. And has that dissipated over time at the
21 surgery center?

22 A. Yes.

23 Q. Okay.

24 A. As they've heard the chatter --

25 Q. Diminished. I don't know what the right word

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1 patient at a hospital because I no longer have hospital
2 privileges.

3 Q. All right. Let me explore that a little bit.
4 You can still do, it sounds like, the same procedures;
5 is that correct?

6 A. Yes.

7 Q. But now you're required to have a backup
8 physician observe those procedures?

9 A. No, sir. There has to be somebody willing to
10 admit the patient if something was to go array.

11 Q. Okay.

12 A. For example, let's say, you're doing a
13 dilatation or curettage on a morbidly obese woman and
14 she has a problem with anesthesia and she has
15 respiratory issues and the anesthesiologist feels she
16 needs to be admitted for respiratory issues. There
17 needs to be an admitting gynecologist who would be able
18 to get her into the hospital.

19 Q. I see. Okay. So it's not any kind of
20 observation or proctoring --

21 A. No.

22 Q. -- or standing beside you. It's if somebody
23 needs to go in the hospital, you can't admit them any
24 longer to Aiken?

25 A. Correct.

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1 is.

2 A. Yes.

3 Q. All right. Okay. And you're an owner of the
4 surgery center, one of the owners; is that right?

5 A. Yes. I have one share or 1.1 share or
6 whatever it is.

7 Q. Okay. One share. All right.

8 Do you know what kind of corporate entity
9 this surgery center is? LLC? Inc.?

10 A. I'm sorry to say that my knowledge of
11 business is superficial at best.

12 Q. All right. One share. And that one share
13 entitles you to a share of the profits that the surgery
14 center makes?

15 A. Yes.

16 Q. And what have those profits looked like?

17 A. We have not had any profits distributed to
18 any of the members.

19 Q. No profits?

20 A. Ever.

21 Q. That's too bad.

22 Have you had to -- what did you pay for your
23 share, do you recall?

24 A. I'm going to approximate about \$28,000.

25 Q. Okay. And did you have an expectation that

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1 there would be profit when you entered into the --

2 A. Yes.

3 Q. -- when you made the purchase?

4 A. Yes, I did.

5 Q. Okay. Do you know why there hasn't been a

6 profit?

7 A. I have an idea.

8 Q. Okay. What is your idea?

9 A. It's my understanding in order to get the

10 Certificate of Need, the hospital had to agree to allow

11 the surgery center to be built in Aiken, and in return

12 for that favor, they requested to run the surgery center

13 for the first year. And there was sizable financial

14 losses. And at the end of that year, the hospital was

15 eventually bought out by the physicians and the

16 productivity of the facility has improved; however, it

17 is not as profitable as we would like it to be. That's

18 it basically.

19 Q. Okay. How long has it been since the

20 hospital was bought out by the physicians?

21 A. They were bought out the year after. There

22 were members for approximately a year and maybe a couple

23 of months, and then they were bought out.

24 Q. Okay. About a year ago, is that what you

25 said? I'm sorry.

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1 Q. Okay. So their shares are for sale as far as

2 you know?

3 A. Yes.

4 Q. Okay. So they're currently owners still?

5 A. I do not know. I don't know if they've been

6 bought or not bought. I've never asked.

7 Q. Were they part of the initial ownership

8 group --

9 A. Yes.

10 Q. -- along with you?

11 A. Yes. We pulled call for about four or five

12 years.

13 Q. I'm sorry?

14 A. I said we pulled call for several years

15 together.

16 Q. Pulled call. Okay. Took call together.

17 Okay.

18 A. Uh-huh.

19 Q. All right. Now is as good a time as any. I

20 spent the hour that you waited listening to the tape of

21 you and K.D. Justyn, and a lot of it seemed to do

22 with -- though it was hard for me to hear -- the surgery

23 center. How did you come to have that tape?

24 A. I taped her.

25 Q. How did you tape her?

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1 A. No, a year into --

2 Q. Into your ownership?

3 A. Correct.

4 Q. All right. When did you become an owner?

5 A. When the surgery center was built.

6 Q. Okay. I don't know when that was, do you?

7 A. The surgery center probably has been in place

8 for approximately eight years, seven to eight years.

9 Q. Okay. Fair enough. Are you attempting to

10 sell your share in the surgery center currently?

11 A. Not right now. I would have if I had been

12 allowed to move.

13 Q. Okay. If you had been allowed to move. Oh,

14 you mean if you found privileges elsewhere, you would

15 have sold it?

16 A. Correct.

17 Q. I got you. All right. Is it your

18 understanding -- well, is it your understanding that

19 Dr. Boehner is a owner of the surgery center?

20 A. Dr. Boehner is no longer an owner of the

21 surgery center, as far as I know.

22 Q. Okay.

23 A. Okay. Correction. I know that Dr. Boehner

24 and Mr. Boone had placed their shares up for sale. I

25 don't know if anybody's bought them or not.

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1 A. With a taping device.

2 Q. Okay. Did you -- you had a taping device

3 that was concealed in some way?

4 A. No.

5 Q. Did she know she was being taped?

6 A. She did not know she was being taped.

7 Q. Okay. How did you -- she didn't know.

8 Where was the taping device?

9 A. The taping device was on my pocket.

10 Q. Okay. In your white doctor's jacket pocket?

11 A. Clipped.

12 Q. Okay. Clipped in the pocket. All right.

13 Had you ever taped -- you taped that

14 conversation, which was about an hour, I guess. It

15 seemed to have two parts to it, if I can make it out.

16 There was a beginning part and then it sounded like you

17 went down and did a procedure or something or took care

18 of a patient and then came back for about an hour's

19 length of tape. That's all that I heard.

20 Was there any other taping of her before or

21 after that hour?

22 A. No.

23 Q. No. Okay. Had you ever taped her on other

24 occasions?

25 A. No.

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1 Q. Okay. Have you ever taped any of the other
2 defendants without them knowing about it in this suit?
3 A. No.
4 Q. You know who the defendants are, right? I
5 wouldn't have to go through --
6 A. No. I know who they are. No, I did not.
7 Q. Is that the first time you've ever taped
8 anybody surreptitiously, or without them knowing?
9 A. Yes.
10 Q. Okay. Why?
11 A. On the recommendation of other physicians.
12 Q. All right. Why did they recommend that you
13 tape her?
14 A. Because it was apparently becoming common
15 knowledge throughout the hospital gossip tree that they
16 were, quote, out to get me. And they were working on
17 getting rid of me.
18 Q. Okay. That they were out to get you. Other
19 physicians recommended that you should tape K.D. Justyn,
20 the CEO of the hospital, because word on the street was
21 K.D. was out to get you or the hospital or both?
22 A. Both.
23 Q. Okay. Who were the other physicians that
24 recommended that you do the taping?
25 A. Denise Parnell.

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1 when was this? I know K.D., she left before the end of
2 your first peer review action that ended in 2010. And
3 Carlos was then the CEO. I can tell from the documents.
4 About when would you have created that tape?
5 A. I honestly cannot say without looking at the
6 time and date stamped on the computer file. But it was
7 in and around the same that she had promised to assist
8 me in acquiring a new partner.
9 Q. And about when were you looking to get a new
10 partner? Would that have been 2008, '9?
11 A. I was in 1560. We were growing rapidly. She
12 had suggested to me that I look for another partner. It
13 was probably two years before she was retired, would be
14 my approximation.
15 Q. So approximately 2008?
16 A. Yeah.
17 Q. Okay. All right. And did you capture
18 anything on that tape that you thought evidenced either
19 her desire or the hospital's desire to get you?
20 A. No.
21 Q. Okay. Did that surprise you that you didn't
22 capture that on tape?
23 A. Yes.
24 Q. What did you expect you would hear from K.D.?
25 A. I expected her to be a little bit more brazen

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1 Q. Okay.
2 A. Bonnie Szymik.
3 Q. All right. Anybody else?
4 A. And then indirect -- I would call it an
5 indirect -- for example, a doctor may have said to me,
6 "Watch out, Margo, they're out to get you."
7 I may have said, "Okay. This is what I've
8 heard, this is what I've heard, this is what K.D. told
9 me in a meeting."
10 And then they would say, "Man, you should
11 have gotten that on tape."
12 Q. Okay. And that's a little different than, I
13 guess, than Parnell and was it Szyreg?
14 A. Szymik.
15 Q. Szymik. Theirs was more direct than that.
16 Is wasn't a "Well, it would have been great if you had
17 taped it." Theirs was, "You ought to go tape her?"
18 A. Yes.
19 Q. Okay. And were you just along for the ride
20 on that, or were you in favor of the plan to tape it? I
21 guess you were in favor of it because you put the tape
22 recorder in.
23 A. I believed her, that it might be a good idea.
24 Q. Okay. All right. And I didn't -- I couldn't
25 tell a date or anything from what I listened to. About

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1 about not paying for my partner and why --
2 Q. Okay.
3 A. -- on the basis of the previous conversation
4 that we had had.
5 Q. Sounded to me like there was a lot of
6 discussion of the surgery center and an apparent suit or
7 threat of suit by the owners of the surgery center
8 against the hospital. Do you recall that?
9 A. Yes.
10 Q. What do you recall about what was going on at
11 the time between the hospital, apparently, or between
12 the surgery center owners and the hospital?
13 A. There was a great amount of animosity between
14 the surgery center physicians and the hospital. The
15 surgery center was costing the hospital a sizable amount
16 of surgical losses. The surgery center believed that
17 there may have been some inappropriate management in the
18 first year. They wanted to buy out the hospital. The
19 hospital refused to be bought out. The surgery center
20 physicians tried to force them out.
21 Eventually, they came to an agreement only if
22 all physicians would be willing to sign an agreement
23 saying that they would never sue regarding anything that
24 had been done by the hospital in terms of the management
25 of the surgery center.

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<p>1 Q. Okay. So that was the settlement that was</p> <p>2 ultimately reached?</p> <p>3 A. Yes. With the exclusion of me.</p> <p>4 Q. Okay.</p> <p>5 A. They did not require me to sign.</p> <p>6 Q. Why didn't they require you to sign?</p> <p>7 MR. SOWELL: She said they did not, right?</p> <p>8 MR. DAYHUFF: Did not.</p> <p>9 THE WITNESS: They did not require me to</p> <p>10 sign. I don't know. I had said I refused to sign.</p> <p>11 BY MR. DAYHUFF:</p> <p>12 Q. Okay. You wanted to retain your right to sue</p> <p>13 the hospital over its management of the surgery center?</p> <p>14 A. I wanted to not be involved in war.</p> <p>15 Q. Well, that was the settlement, wasn't it?</p> <p>16 A. Right.</p> <p>17 Q. The end of the war or preventing the war. So</p> <p>18 how would you refraining from entering into the</p> <p>19 settlement agreement keep you out of the war?</p> <p>20 A. I didn't believe it was proper.</p> <p>21 Q. Why?</p> <p>22 A. I believe that the hospital did things that</p> <p>23 were inappropriate on the basis of what I had been told</p> <p>24 by the management and other physicians.</p> <p>25 Q. Okay. And by that you mean they had</p>	<p>1 conversation I listened to, did you know that the</p> <p>2 members of the surgery center were planning a legal</p> <p>3 action against the hospital?</p> <p>4 A. I actually did not.</p> <p>5 Q. Okay. Did you know --</p> <p>6 A. That was the first time I had heard about it.</p> <p>7 Q. Okay. Did you know that the members of the</p> <p>8 surgery center had sent in a demand of some sort that I</p> <p>9 heard referenced on the tape?</p> <p>10 A. I did not know what they were doing. The</p> <p>11 management team consists of three other physicians.</p> <p>12 And, really, I try not -- or get myself into the</p> <p>13 business of the surgery center or any other entity for</p> <p>14 that matter.</p> <p>15 Q. Okay.</p> <p>16 A. I was mostly just trying to lay low.</p> <p>17 Q. Sure. So when you told K.D. that you knew</p> <p>18 nothing about the surgery center doctors getting an</p> <p>19 attorney and sending in this demand letter or maybe</p> <p>20 wanting to sue or not wanting to sue, you were telling</p> <p>21 the truth?</p> <p>22 A. Yes, I was.</p> <p>23 Q. Okay. All right. During the middle part of</p> <p>24 the tape when there was the break, I guess you had a</p> <p>25 conversation with K.D., some of which I could hear.</p>
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<p>1 mismanaged the surgery center in some way?</p> <p>2 A. There was allegations to that fact.</p> <p>3 Q. And you wanted to retain your right to pursue</p> <p>4 those allegations with a legal matter?</p> <p>5 A. No. And it's hard for me to say exactly when</p> <p>6 that lawsuit occurred. It was in and around the same</p> <p>7 time that I was starting to hear whispers that they were</p> <p>8 working on trying to -- they knew that I was applying to</p> <p>9 University and that they were working on getting rid of</p> <p>10 me. And so I didn't want to sign anything at all</p> <p>11 because I didn't know what they were going to do to me.</p> <p>12 Q. Okay.</p> <p>13 A. In a nutshell, I was afraid.</p> <p>14 Q. Okay. Was there an actual suit that was</p> <p>15 filed by owners of the surgery center against the</p> <p>16 hospital over this ownership dispute and management</p> <p>17 dispute?</p> <p>18 A. I don't know what the word for it is, but</p> <p>19 there was a letter sent.</p> <p>20 Q. A demand made or something?</p> <p>21 A. Something like that.</p> <p>22 Q. Okay. All right.</p> <p>23 A. I don't know what it's called in lawyer</p> <p>24 words.</p> <p>25 Q. When you went to meet with K.D., that</p>	<p>1 Sounded like you met with other folks to almost report</p> <p>2 on what had gone on in the conversation. But, you know,</p> <p>3 it was very hard for me to hear, so I'm not sure. It</p> <p>4 sounds like you met with someone else, then went and</p> <p>5 took care of a patient.</p> <p>6 A. I don't believe that to be true.</p> <p>7 Q. Okay. It may be that I just didn't hear it.</p> <p>8 I heard you say something about stealth mode on your</p> <p>9 tape. "I put it on stealth mode," something like that.</p> <p>10 A. I don't understand what you're saying to me.</p> <p>11 Q. Well, I may have misheard.</p> <p>12 Okay. What I heard K.D. say on that tape was</p> <p>13 that -- well, what message did K.D. give you during that</p> <p>14 conversation that had two parts? What did you take away</p> <p>15 from that?</p> <p>16 A. What I took away from that was she was no</p> <p>17 longer going to subsidize my partner unless I made some</p> <p>18 sort of maneuver to convince the surgery center</p> <p>19 physicians to drop their lawsuit.</p> <p>20 Q. Okay.</p> <p>21 A. I believe that she was taking that somewhat</p> <p>22 personally.</p> <p>23 Q. All right. And you said no longer subsidize</p> <p>24 or fund? What did you say, subsidize?</p> <p>25 A. Subsidize, fund, help, assist.</p>

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1 Q. Well, she hadn't begun to help, assist, or
2 subsidize your partner at that time, had she?
3 A. She had made several promises, and she was
4 the one that suggested I get another partner and that I
5 expand.
6 Q. So your testimony is she had promised to
7 subsidize, fund, assist you with a partner prior to that
8 time?
9 A. Correct.
10 Q. All right. But it is true, though, that no
11 funding, assistance, subsidy had occurred to that point,
12 the point of the conversation that day, for your new
13 partner?
14 A. As far as I know. And I was trying to
15 remember whether or not she had helped me with
16 recruitment, and I cannot remember if she did or not.
17 Q. Okay.
18 A. But I believe that she may have.
19 Q. And it sounded like -- go ahead. Are you
20 done?
21 A. Yes.
22 Q. I don't want to cut off your answer.
23 It sounded like she took the position that
24 she would need to run any subsidy, funding, relocation
25 package by corporate legal. Do you recall that?

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1 A. Yes.
2 Q. All right. That's fairly common, isn't it?
3 A. I have no idea.
4 Q. Okay. And she indicated that it would be
5 difficult for her to approve funding for a physician
6 that was suing her, that that might cause some hiccups
7 in the process, right?
8 A. Yes. I took that as a threat.
9 Q. All right. Did you -- did you find that to
10 be unreasonable, that if a physician is suing you --
11 suing the hospital, that it might cause some difficulty
12 with getting funds to assist that physician in doing
13 whatever that physician wants to do?
14 A. It would be hard for me to have said at that
15 time, since her accusations I had no knowledge of. I
16 had to verify that later.
17 Q. Okay. Well, I guess what I'm asking is, is
18 it unreasonable for somebody to withhold assistance to
19 someone that is suing them?
20 MR. DICK: Object to the form.
21 BY MR. DAYHUFF:
22 Q. Is that unreasonable?
23 A. I think it depends on the situation and who's
24 actually doing the suing.
25 Q. Okay.

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1 A. Who's actually running the show.
2 Q. Okay. Let's see. I think you told me you
3 had never taped anybody other than that one time?
4 A. Uh-huh.
5 Q. Okay. And if this happened about 2008,
6 you've had that tape for a long time. It's now three
7 years.
8 A. Yes. But I also offered the caveat that I'm
9 very bad with timeline.
10 Q. Okay. Could have been two years?
11 A. You must understand that there's a tremendous
12 amount of things that have happened to me and a
13 phenomenal amount of data, dates, times --
14 Q. Sure.
15 A. -- numbers and so --
16 Q. Let me make it easier for you. The first
17 peer review action, the five cases, that went to a
18 hearing in 2009, this conversation would have been
19 before that?
20 A. Yes.
21 Q. Okay. So that helps me understand where we
22 are on the timeline.
23 When did you let your attorneys know that you
24 had possession of a recording of one of the defendants
25 in this suit?

Page 52

1 A. Probably at the time the first peer review
2 hit.
3 Q. The first peer review action about the five
4 cases?
5 A. Right.
6 Q. Okay. All right. Do you have any other
7 tapes that are related to this case?
8 A. No.
9 Q. Have you ever had any other tapes that are
10 related to this case?
11 A. No.
12 Q. All right. Okay. Enough of the tape.
13 We were talking some about your practice, and
14 you gave me the good description of how your -- you need
15 a break?
16 A. No, not at all.
17 Q. Okay. -- how your day looks, your week
18 looks. And I want to know if your week looked
19 different, and I'm sure it did, before the 2010
20 suspension, which would have been in February or early
21 March of 2010. What did your day look like, your week
22 look like then before, when you had full privileges at
23 Aiken?
24 A. When I had full privileges? It was much
25 busier.

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1 Q. Okay.

2 A. And much happier. I would get up early in

3 the morning, maybe around 5:00. I would get to the

4 hospital about 6:30. I would round on my patients.

5 Discharging anybody that needed to be discharged, tweak

6 anybody that needed to be tweaked. Starting any

7 inductions that needed to be started. Write orders,

8 blah, blah, blah, hospital work. And then I would go

9 over to my clinic, and it was very brisk and very busy.

10 Q. About what time usually would you get to your

11 clinic?

12 A. About 8:00.

13 Q. Okay. All right. You do your clinic work

14 and see patients until when?

15 A. Until we were done.

16 Q. Okay. And that would be 5:00?

17 A. 6:30.

18 Q. 6:30. Okay.

19 A. Sometimes later. We were seeing about 70 to

20 75 patients a day.

21 Q. Okay.

22 A. Which is why K.D. recommended that I get a

23 partner.

24 Q. And that partner that you were talking about

25 in the tape, is that who?

Page 54

1 A. Laura Irwin.

2 Q. Laura Irwin.

3 Has she participated in this peer review?

4 That name is familiar. Was she one of your witnesses?

5 A. No.

6 Q. No. Okay. Maybe she's one of the witnesses

7 on the list now. That's fine.

8 Okay. 70, 75 patients, see them until about

9 6:30 or 7:00.

10 How common was it to go to 6:30 or 7:00? If

11 we were looking at your average day, would you usually

12 end at 6:00, end at 6:30, end at 7:00?

13 A. I would say we would usually end around 6:30.

14 Q. That's a normal. So that's a Monday,

15 Tuesday, Wednesday, Thursday, Friday?

16 A. Uh-huh.

17 Q. Okay. And did you still have the half day

18 Friday where you go over to the surgery center?

19 A. What I did was -- well, after clinic, I would

20 go back to the hospital and round again. And if I had

21 any labors --

22 Q. Okay.

23 A. -- I would run over and, you know, do the

24 deliveries.

25 Q. So you would round again after 6:30?

Page 55

1 A. Uh-huh.

2 Q. Okay. All right.

3 A. And if I had any deliveries to do, I would do

4 them. And then I would go home.

5 Q. Okay. And this may not make any sense for an

6 OB, but did you have a block time arrangement at the

7 hospital?

8 A. Yes. Every other Monday I had a full block

9 time, an entire day, devoted to major surgeries.

10 Q. All right.

11 A. And then I had -- if I recall correctly, I

12 believe that I had a half a day on the off Fridays. And

13 then --

14 Q. Okay.

15 A. -- the other Friday was a surgery center

16 Friday.

17 Q. Got you. And that was a half day at surgery

18 center because you had to end by 3:00?

19 A. Right. Because I was doing some of the

20 minors at the hospital.

21 Q. Okay.

22 A. And then if I had any added cases that didn't

23 fit, we would try and fit them in at lunchtime or

24 whenever we could get them in.

25 Q. Okay. Lunchtime any day of the week or

Page 56

1 lunchtime on Monday or --

2 A. Any day of the week.

3 Q. Any day of the week. Okay.

4 How often did you have fit-ins, frequently?

5 A. Frequently.

6 Q. Okay. How many surgery cases would you do

7 during your Monday block on average, how many cases?

8 A. It would depend upon the complexity of the

9 case. In general, my surgeries were complex in nature.

10 So I would say four to five.

11 Q. Okay. And what was the other day, Wednesday?

12 A. Every other Friday.

13 Q. Every other Friday. How many cases would you

14 do on the every other Friday at the hospital?

15 A. About four to five.

16 Q. Okay. Same thing at the surgery center, four

17 to five? Though they would be minor, I guess.

18 A. Correct.

19 Q. Top three surgeries at the surgery center

20 during that time the same as the top three now?

21 A. Yes.

22 Q. What was your top three surgeries by volume

23 that you were doing at Aiken?

24 A. Majors or minors?

25 Q. Let's do both. Give me your majors first.

Pages 53 to 56

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1 A. Majors would be hysterectomies.
 2 Q. Okay.
 3 A. Pelvic organ reconstruction.
 4 Q. Okay.
 5 A. Incontinence procedures.
 6 Q. Okay.
 7 A. Female incontinence, obviously.
 8 Q. Minor?
 9 A. Major.
 10 Q. Now we can move to the minor.
 11 A. Sorry.
 12 Q. It's all right.
 13 A. Minors? More detailed laparoscopy
 14 procedures.
 15 Q. Okay.
 16 A. And then the same thing, hysterectomies and
 17 tubals.
 18 Q. Okay. Good. All right. And I guess the OB
 19 portion of your practice is whenever that happens.
 20 Can't very well schedule that. I guess you can the
 21 inductions.
 22 A. You have ability to induce, you know. And
 23 you have ability to time things and kind of plan around
 24 things.
 25 Q. Okay.

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1 Q. 70 percent OB and --
 2 A. No, no.
 3 Q. Other way around. 30 percent OB,
 4 70 percent --
 5 A. Gynecology.
 6 Q. -- gynecology. That's a picture of your
 7 outpatient work before suspension revocation?
 8 A. Correct.
 9 Q. All right. If we were to look inpatient, and
 10 I think I want to include in this -- most of this
 11 doesn't make sense -- work at the hospital and work at
 12 the surgery center, that's inpatient, right?
 13 A. No. The surgery center is outpatient.
 14 Q. Let's just do work at the hospital. How does
 15 that breakdown between OB and GYN?
 16 A. My hospital work was approximately 80 percent
 17 gynecology and 20 percent obstetrics.
 18 Q. Okay. Same question. Your work at the
 19 surgery center, which is outpatient surgery, how does
 20 that breakdown between GYN and OB?
 21 A. There are no obstetric procedures performed.
 22 MR. DAYHUFF: You're right. Correct. I've
 23 got it now, David. Thank you.
 24 All right.
 25 MR. SOWELL: So we're saying a hundred

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1 A. For example, if you guesstimated that
 2 somebody was going to deliver at 3:00, you might move
 3 patients from 3:00 forward and work through lunch so you
 4 could --
 5 Q. I see. Okay. Could you divide your practice
 6 between GYN and OB by percentages? I mean, were you
 7 doing 80 percent GYN, 20 percent OB?
 8 A. Approximately.
 9 Q. Okay. And that includes both outpatient
 10 stuff and inpatient?
 11 A. Well, there's not -- I don't understand the
 12 question. Rephrase.
 13 Q. Well, I'm trying to make sure I'm asking the
 14 right question.
 15 A. You mean like outpatient deliveries? You
 16 don't catch a baby outpatient.
 17 Q. Right. That doesn't make any sense. Maybe
 18 we should break it down into your outpatient work, okay.
 19 Not in the hospital or the surgery center. That would
 20 just be clinic work, right?
 21 A. Oh, my clinic work. Okay.
 22 Q. What would that breakdown be between GYN and
 23 OB? Before the revocation -- the suspension revocation.
 24 A. Before, maybe 70/30. 30 percent obstetrics
 25 and 70 percent gynecology.

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1 percent gynecology at the surgery center?
 2 MR. DAYHUFF: See, Biff needed clarification
 3 on that, too, David.
 4 MR. DICK: There's three things, clinical,
 5 outpatient and inpatient. You're calling outpatient
 6 clinical earlier, so just clarifying it for you.
 7 MR. DAYHUFF: Remember, I had to listen to
 8 that whole tape. I'm worn down, David.
 9 BY MR. DAYHUFF:
 10 Q. All right. I want to go through the same
 11 questions now. What does it look like now. So you're
 12 obviously not doing anything at Aiken, that's right. So
 13 that's gone. What is your practice -- your clinical
 14 work look like now OB/GYN, your breakdown, your
 15 percentages?
 16 A. Obviously --
 17 Q. I know you're not delivering babies at the
 18 office, but you must be doing some OB stuff, right?
 19 Maybe it's all GYN?
 20 A. No. It's -- I do antenatal care, which means
 21 to see the pregnant patient before the delivery.
 22 Q. All right.
 23 A. Because I have the support of a lot of
 24 sympathetic physicians in the community of both Aiken
 25 and Augusta.

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1 Q. Okay.

2 A. And so basically the concept is called

3 laborist.

4 Q. All right. And so that is OB work? We'd

5 call that OB work, right?

6 A. Well, for me clinical, but I don't get to

7 catch the babies. And the patients don't like that.

8 Q. Uh-huh. What percent of your work is

9 antelabor?

10 A. Natal.

11 Q. Antenatal.

12 A. Maybe 10 percent.

13 Q. So 90 percent is GYN?

14 A. Uh-huh.

15 Q. Got it. All right.

16 And all your work, of course, at the surgery

17 center is GYN?

18 A. Yes.

19 Q. Okay. Good. All right. Has your payor mix

20 changed? I can't imagine it would have before and -- or

21 after the suspension. And payor mix, I mean Medicaid

22 versus -- you know, government payors versus private pay

23 versus self-pay. Do you have any sense of what that

24 looks like?

25 A. What I would give you is a sense because I

Page 63

1 that change ought to be attributable to the loss of

2 privileges?

3 A. Yes.

4 Q. None of that would be attributable to the

5 economic difficulties the country has gone through?

6 A. I think a small portion would have to do with

7 the economic difficulties, but we lost a lot of

8 patients.

9 Q. Okay. By the way, tell me if you need a

10 break at any time.

11 MR. SOWELL: Why don't we take one. Is that

12 okay?

13 MR. DAYHUFF: Yeah, absolutely.

14 (A recess transpired.)

15 BY MR. DAYHUFF:

16 Q. I want to understand who your current

17 employees are, and I have a list.

18 A. Okay.

19 Q. That may make this easy.

20 Mary K. Anderson, is she a current employee?

21 A. You mean Sister Mary Katherine. Yes.

22 Q. Yeah. She's a Sister?

23 A. No. I nickname all my employees. It's just

24 a thing I do.

25 Q. Because I'm a Catholic, and I would be

Page 62

1 try and not focus on money and what kind of insurance

2 people have because people are people. But my overall

3 feel would be that prior to what was done to me by the

4 hospital, I was more of a boutique-type private pay or

5 payor-insured clinic.

6 Q. All right. So you did less Medicaid before

7 the suspension revocation?

8 A. Correct. And because of patient loss and

9 damage to my reputation, we had more openings and,

10 therefore, we had more Medicaid and Medicare patients

11 coming in.

12 Q. Okay. So that affected both Medicaid and

13 Medicare?

14 A. Correct.

15 Q. All right. And do you have any sense of --

16 and you may not, which is fine, what that would have

17 looked like before and after? "Well, before I was only

18 doing 30 percent Medicaid, now I'm doing 60 percent

19 Medicaid."

20 A. Before I was -- my approximation would be 15

21 to 20 percent of Medicare combined with Medicaid.

22 Q. Okay.

23 A. And afterwards, significantly more. Maybe 40

24 to 50.

25 Q. Okay. All right. And you believe that all

Page 64

1 interested if you managed to get a sister to work for

2 you.

3 A. Well, I mean, seriously, how many Mary

4 Katherines do you know that aren't a sister?

5 Q. I know a lot of them that are, you're right.

6 Good point.

7 A. I rest my case.

8 Q. What does Sister Mary Katherine do?

9 A. Mary Katherine does check in, check out.

10 Q. Okay.

11 A. And sometimes she works in the back --

12 Q. Okay.

13 A. -- loading rooms.

14 Q. And how long has she been with you,

15 approximately?

16 A. There's so many numbers. Mary Katherine has

17 probably been with me for between two and three years.

18 Q. Okay. Do you have any idea what she makes an

19 hour?

20 A. No. My job is to be the doctor.

21 Q. I know.

22 A. They try and keep numbers away from me.

23 Q. Okay. She's probably an hourly employee. Is

24 she full-time or part-time?

25 A. She is a full-time hourly employee.

Pages 61 to 64

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1 Q. Dana Chambers?

2 A. Full-time hourly employee.

3 Q. Do you know how much she makes per hour or

4 have an estimate? And it's fine if you don't.

5 A. I don't know.

6 Q. What does she do?

7 A. Dana is a medical assistant. She helps me in

8 rooms and she gives shots and does phlebotomy and

9 basically anything that needs to be done in terms of the

10 clinical side.

11 Q. She's been with you for how long?

12 A. A long time. I'm going to go with seven

13 years.

14 Q. Okay. Maria Dixon.

15 A. Maria Dixon is an hourly employee. She's

16 full-time.

17 Q. What does she do?

18 A. She does billing.

19 Q. Okay. How long has she been with you?

20 A. She's been with me probably going on

21 three-plus years.

22 Q. Raymond Dixon?

23 A. Gone.

24 Q. Okay. When did he leave your employ?

25 A. About a month ago.

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1 A. And so you let the bad ones go first.

2 Q. Anita Dukes?

3 A. She is the check-out person.

4 Q. All right. Full-time?

5 A. Full-time.

6 Q. How long has she been with you?

7 A. Anita has been with me for probably about

8 five years.

9 Q. Charlene Felkel, full-time?

10 A. Part-time.

11 Q. What does she do?

12 A. Contractual, 1099 nurse practitioner.

13 Q. Okay. Is she salaried? She's not salaried,

14 she's part-time. Do you know what she makes hourly?

15 A. It's more of like a you-eat-what-you-kill

16 thing. She gets paid what she averages out. There's a

17 percentage of -- she gets to keep whatever percentages

18 of what she makes, and the rest goes to the house.

19 Q. Okay.

20 A. You know, for the equipment and nursing.

21 It's kind of averaged out.

22 Q. How long has she been with you?

23 A. For a very long time. I'm going to go with

24 about seven years.

25 Q. Seven years. Is it your sense that she's

Page 66

1 Q. All right. Why?

2 A. Because we couldn't afford him anymore.

3 Q. Okay. And what did he do?

4 A. He was a front office person.

5 Q. Okay.

6 A. He was a runner, essentially. Because it's a

7 very large suite, and we're still on paper charts. And

8 so he did filing and ---

9 Q. I got you.

10 A. -- pulling labs with charts and that kind of

11 stuff.

12 Q. Was he full-time or part-time?

13 A. He worked, I want to say, about 30 hours a

14 week.

15 Q. Okay. And before he was let go, how long had

16 he been with you?

17 A. Two years.

18 Q. Two years. Is he related to Maria?

19 A. Yes.

20 Q. So he wasn't terminated for cause, he was let

21 go because the business couldn't support it?

22 A. Both.

23 Q. Both. So there was a cause reason?

24 A. Well, he was a weaker employee. Yes.

25 Q. Okay.

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1 profitable for your LLC?

2 A. Mildly.

3 Q. Mildly. Okay. That's better than the

4 alternative.

5 Joanne Feutral. I have her listed as a

6 former employee.

7 A. She's gone.

8 Q. When did she leave your employ?

9 A. Probably going on a year and a half, a year.

10 Q. And what did she do for you?

11 A. Everything. She was the other half of my

12 brain. She was our lead nurse, and she was my surgical

13 assistant.

14 Q. And was she terminated for cause or did she

15 find a different job?

16 A. She left.

17 Q. She left?

18 A. She found another job because of the

19 instability in the practice, and she's older.

20 Q. Okay.

21 A. So she -- we still don't know if we're going

22 to survive, so ...

23 Q. And she was full-time?

24 A. Uh-huh.

25 Q. Robyn Heath. I have her listed as a former.

Pages 65 to 68

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1 A. Yes.

2 Q. When did she leave you?

3 A. Two years ago.

4 Q. Okay. And what did she do?

5 A. She was a nurse. She helped me with the

6 rooms.

7 Q. Okay. Full-time?

8 A. Full-time.

9 Q. Why did she leave?

10 A. Because we couldn't afford her because of the

11 goings on and decreasing patient base.

12 Q. Okay. All right. Margo Muniz, employee; is

13 that correct?

14 A. Yes.

15 Q. All right. I know how long you've been with.

16 What does the LLC pay you in salary?

17 A. 200,000, I think.

18 Q. 200,000 a year. That's currently. What did

19 it pay you before the suspension and termination of

20 privileges?

21 A. We have this written out somewhere. It was

22 much more, plus bonuses. 375- plus bonuses.

23 Q. 375- a year plus bonus.

24 Is there any bonus when you're making 200- a

25 year?

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1 years, is that what we just said?

2 A. Well, not after I lost my privileges.

3 Q. Before, right.

4 A. Before.

5 Q. Okay. That's an estimate. Good. All right.

6 So you get a W-2, right?

7 A. Yes.

8 Q. All right. Vickie Lankford, I have as a

9 former?

10 A. Uh-huh.

11 Q. When did she leave you?

12 A. Vickie left us about -- I'm going to go with

13 a year and a half.

14 Q. Why did she leave?

15 A. She's got pancreatic cancer metastatic.

16 Q. What did she do for you?

17 A. She was the front-end girl.

18 Q. Okay. Was she part-time or full-time?

19 A. She was full-time.

20 Q. All right. Allison Morgan, former.

21 A. She was part-time.

22 Q. All right.

23 A. And she left to do a full-time job at

24 University.

25 Q. And what did she do for you?

Page 70

1 A. I haven't had any bonus since the event

2 occurred.

3 Q. What did your bonuses average?

4 A. They used to be great. Maybe anywhere from

5 10- to 20- a quarter.

6 Q. 10 to 20 grand a quarter?

7 A. Yes.

8 Q. Okay. And we do have more detailed

9 information that I haven't had time to go through. But

10 you believe it to be 375- a year. And, of course,

11 you've been -- that's during the time you were in

12 Magnolia Medical, which was -- you've worked in a

13 different LLC at some point or worked in a different

14 practice, didn't you, before Magnolia Medical?

15 A. Uh-huh.

16 Q. Okay. How many years? I know I asked you

17 this before, but I don't remember. How old is Magnolia

18 Medical, LLC -- Parkside, LLC, doing business as

19 Magnolia Medical?

20 A. Okay. It's 2011 going on 2012, so -- I don't

21 know, six to seven years.

22 Q. Six to seven years?

23 A. I'm guesstimating.

24 Q. Sure. And your estimate would be you were

25 making 375- a year plus bonus over the six to seven

Page 72

1 A. She was the phone nurse.

2 Q. Jewel Rowe, R-o-w-e?

3 A. Full-time.

4 Q. What did she do for you?

5 A. Biller.

6 Q. What's a biller?

7 A. The one who fights insurance companies and

8 tries to get them to pay you what they owe you.

9 Q. Tough job.

10 A. Yes.

11 Q. Marla Scott?

12 A. Manager.

13 Q. Practice administrator, manager?

14 A. Yes.

15 Q. Okay. Full-time?

16 A. She was, but now she's part-time.

17 Q. All right. And I don't know if I asked you,

18 is your biller, Jewel, full-time?

19 A. Full time.

20 Q. All right. Marla is part-time. Why did she

21 go from full to part?

22 A. She got a second job, and the stress of what

23 was going on was becoming psychologically overwhelming

24 for her. And it was exacerbating her illnesses,

25 rheumatoid arthritis.

Pages 69 to 72

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Page 73

1 Q. Jacqueline Workman?
 2 A. Part-time.
 3 Q. What does she do for you?
 4 A. Secretarial.
 5 Q. Okay. Any other employees that we might have
 6 missed?
 7 A. Did you say Tammy?
 8 Q. I don't have a Tammy.
 9 A. We have a Tammy. She's a phone nurse.
 10 Q. A --
 11 A. Phone nurse.
 12 Q. Phone nurse?
 13 A. Phone nurse. Phone nurse.
 14 Q. Phone nurse?
 15 A. Yes.
 16 Q. Okay. All right. Full-time or part-time?
 17 A. I'm going to be honest with you, I'm not
 18 really sure.
 19 Q. Okay. You're not sure if she's full or
 20 part-time?
 21 A. Yes.
 22 Q. All right. That's fine. Anybody else?
 23 A. She works in the back room, and she fights
 24 with insurance companies and she pre-ops and she, you
 25 know, sometimes will work full-time, sometimes she works

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1 healthcare providers, doctors?
 2 A. You mean like a written contract?
 3 Q. Yeah.
 4 A. Huh-uh.
 5 Q. Okay. All right. Do you have any kind of a
 6 financial relationship at all with Gasnel Bryan, Janet
 7 Larson, either of those two?
 8 A. No.
 9 Q. Okay. Now am I correct that they're doing
 10 some sort of covering for you or assisting you with your
 11 OB patients?
 12 A. I wouldn't say assisting. I would say if one
 13 of my patients goes to ARMC, they're going to go to
 14 Dr. Bryan. He said that he would take care of them
 15 while they were at ARMC.
 16 Q. Okay.
 17 A. And Janet Larson is a high-risk maternal
 18 fetal medicine lady. So if I have a patient that's
 19 antenatal, I discover to be a risk patient, I turn it
 20 over to maternal fetal medicine.
 21 Q. Okay. And there's no written agreements or
 22 financial relationships flowing from that relationship
 23 you just described?
 24 A. Other than renting space. She rents space.
 25 Q. Okay. She rents space from you?

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1 part-time. She's got kids. I mean, she comes and goes
 2 as she pleases.
 3 Q. Okay. Any other employees that we may have
 4 left off?
 5 A. None that I can think of.
 6 Q. How about any folks with contractual
 7 relationships, 1099-type relationships with your LLC,
 8 are there any of those?
 9 A. Besides Charlene?
 10 Q. That's your nurse practitioner, right?
 11 A. Yes.
 12 Q. Besides Charlene.
 13 A. I have an ultrasonographer, who, I guess
 14 she's a 1099 employee.
 15 Q. And she's full or part-time?
 16 A. Part-time.
 17 Q. All right. She has a contract with you guys?
 18 A. Uh-huh.
 19 Q. Do you know what her contract pays her?
 20 A. No.
 21 Q. Okay. All right. Any other contractual
 22 relationships that your LLC has with any other
 23 healthcare providers that you're aware of?
 24 A. Rephrase the question.
 25 Q. Any contracts that your practice has with

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1 A. Yeah, from -- well, from Magnolia. A half a
 2 day every Thursday.
 3 Q. From the LLC, she comes in and rents the
 4 space that she uses in your suite?
 5 A. Correct.
 6 Q. All right. And you have a lease agreement to
 7 that effect?
 8 A. I don't know if it's written or not.
 9 Q. Okay. Do you know what she pays in rent?
 10 A. I'm going to say about \$900.
 11 Q. Okay.
 12 A. But that includes supplies -- all supplies,
 13 computers, electricity, blah, blah, blah, gowns.
 14 Everything she needs.
 15 Q. All right. Does anyone else assist you with
 16 your OB patients that need to be admitted to the
 17 hospital other than Larson and Bryan?
 18 A. There's a Dr. Robillard that I turn my OB
 19 patients over to when they're ready to be delivered if
 20 they're low risk.
 21 Q. Is he or she on the medical staff at ARMC?
 22 A. No. They're a University physician. And his
 23 partner Dr. Hatch.
 24 Q. Okay. How do you decide whether you turn
 25 over your patient to Gasnel Bryan or Robillard?

Pages 73 to 76

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1 A. Most of my patients refuse to go to ARMC.
 2 Q. Really? I mean, how does that happen? Did
 3 they just come in and say, "I'm going to ARMC"? I guess
 4 I'm surprised.
 5 A. 70 percent of the market in Aiken goes across
 6 the river to University or MCG. Aiken only captures
 7 30 percent of the market. At least that's what K.D.
 8 told me.
 9 Q. So that may have been true as of when she was
 10 there?
 11 A. Right.
 12 Q. Have you seen any documents or any kind of
 13 actual studies that indicate that?
 14 A. She showed me some, yes.
 15 Q. Okay. All right. Do you steer patients one
 16 way or the other?
 17 A. The majority of the patients that come to me
 18 come to me because ARMC has a certain -- and they know
 19 that the -- politically what's going on. Everybody in
 20 town knows what's going on. I tell them I don't have
 21 privileges to deliver. I tell them that I have call
 22 partners in both locations. I tell them that
 23 Dr. Robillard is the main one doing the deliveries.
 24 We've sent patients to ARMC, and sometimes they weren't
 25 treated so nicely.

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1 different. That's why I'm going to ask you about it.
 2 2008, they listed \$212,199.33.
 3 A. Yeah. That was after I got hit.
 4 Q. 2008?
 5 A. Right.
 6 Q. It was before.
 7 A. Okay. Oh, I know. I remember. Okay. Yeah,
 8 that's true. There was a dip. And that was because of
 9 Irwin. We had hired Irwin, and we were not reimbursed
 10 by -- we were not given anything of what we were
 11 initially told. And so that was mostly the cost of
 12 bringing her on.
 13 Q. Okay. 2009, your reported income on this
 14 discovery response is \$194,600.
 15 A. Can I see that piece of paper?
 16 Q. Sure. The very top.
 17 A. Yes, sir.
 18 Q. Do you think -- that's far different than the
 19 \$325,000. I mean, the documents will show us, but ...
 20 A. Yeah. I retract my statement then.
 21 Q. Okay.
 22 A. Like I said, I'm not good with numbers.
 23 These -- the drop occurred when we brought in Dr. Irwin,
 24 and we were not compensated as we thought we were. And
 25 we had to outlay the cash to bring her in and to

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1 Q. Okay. So is it fair to say that you steer
 2 patients towards University and away from ARMC for their
 3 OB?
 4 A. I don't like the word "steer."
 5 Q. How would you describe it?
 6 A. I would say more given the choice.
 7 Q. Okay. All right. So you're not influencing
 8 that decision, you're presenting your two options in an
 9 even-handed way?
 10 A. I would have to say it may be somewhat biased
 11 by my body language and also biased by the community at
 12 large. Most of the patients know what's happened. Most
 13 of the patients that come want to be seen at the
 14 convenience of Aiken, but they don't want to be
 15 delivered at Aiken. They want to be delivered at a
 16 larger facility.
 17 I have some patients that want doctors. And
 18 so if they want doctors, I have to turn them over to a
 19 gentleman named Dr. Wilson and Dr. Grossman. Same thing
 20 with major surgeries. I'll refer them wherever they
 21 want to go.
 22 Q. I have in this -- in responses to discovery
 23 from you put together by your counsel, I asked your
 24 compensation for 2008, 2009, 2010, and 2011. And I have
 25 in the answer, and it may or may not be right, but it's

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1 compensate for the building that we had moved into under
 2 the assumption that we were going to be compensated as
 3 K.D. had promised us.
 4 Q. Okay. So upon looking at this, do you think
 5 this is a more accurate reflection of your income over
 6 these years?
 7 A. Yes.
 8 Q. And that, for the record, is 2008, 212,000
 9 and some change; 2009, 194,000; 2010, \$194,000. Okay.
 10 2007, I guess.
 11 MR. SOWELL: What was 2010?
 12 MR. DAYHUFF: 2010 is \$194,600. The exact
 13 same number we have for 2009, which seems a little
 14 interesting. But could be.
 15 BY MR. DAYHUFF:
 16 Q. Since your suspension and revocation, have
 17 you done anything to attempt to -- you told me about
 18 your pharmacy, you told me about your medical
 19 directorship of the methadone clinic.
 20 Have you attempted to ramp up or do more
 21 clinical work?
 22 A. Yes.
 23 Q. Okay. And how is that? How have those
 24 efforts -- describe those efforts.
 25 A. We've delved more into total women's

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1 healthcare, so basic primary care for women. We've
 2 advertised. We've got an ad on the TV. It's a little
 3 tiny, itty-bitty station. I tried giving lectures.
 4 Q. Have you seen those efforts bear fruit or
 5 not?
 6 A. Mildly.
 7 Q. Okay. Can you quantify that at all? Have
 8 you seen a 15 percent uptake in your clinical work?
 9 That's the kind of estimate I'm thinking about.
 10 A. Since when?
 11 Q. Well, you lost your privileges in --
 12 MR. SOWELL: February 25.
 13 BY MR. DAYHUFF:
 14 Q. Well, February 25, 2010. I don't know when
 15 these efforts began to increase your clinical practice.
 16 When did the efforts --
 17 A. There was a precipitous drop afterwards.
 18 This year it's gone up a little bit.
 19 Q. So you saw it go down precipitously after the
 20 suspension revocation, and the trend line is going back
 21 up now?
 22 A. I think you make it sound a little bit more
 23 hopeful than it is.
 24 Q. Okay. Well, is the trend line going up?
 25 A. The trend line is going up, but we are

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1 they've incurred or family members have incurred in the
 2 hospital that they're unhappy with. I have patients and
 3 just people pretty much -- the people I know or hang out
 4 with or whatever in social venues, there's a lot of
 5 chatter about the declining quality of care and their
 6 firing of the ER staff certainly didn't help their
 7 reputation. There's other physicians that they've hurt,
 8 and those physicians may talk and so on and so on.
 9 Q. Okay.
 10 A. It's a small town.
 11 Q. Before you had your LLC of which you and your
 12 husband were 50/50 owners, you worked with other OBs in
 13 the area; is that right?
 14 A. I pulled call with, is that what you're
 15 asking?
 16 Q. No. I'm talking about being a part of a
 17 practice.
 18 A. I was a partner with Dr. Judith Hoover.
 19 Q. Okay. How long were you a partner of
 20 Dr. Hoover's?
 21 A. About four years.
 22 Q. Four years. Okay. So that would almost take
 23 you back to when you arrived in Aiken, right?
 24 A. Yes. Dr. Hoover, myself. Dr. Hoover was a
 25 full partner with Dr. Cindy Besson.

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1 weighted down by the enormous debt that we've incurred
 2 because of what's been done to us.
 3 Q. And you think the trend line is going up in
 4 part because of the efforts you described to me, the
 5 kind of marketing efforts you described to me?
 6 A. Yes. And the ongoing political situation in
 7 the town.
 8 Q. Okay. In the town, which is broader than the
 9 hospital. What does that mean? It's harming the trend
 10 line? It's helping the trend line? I don't understand.
 11 A. I think the hospital's reputation, because of
 12 what they're doing to their physicians and the way they
 13 treat patients, is driving more patients away and in a
 14 very small part is assisting us.
 15 Q. Okay. All right. What -- and I don't need a
 16 whole lot of detail on this, but what is the hospital
 17 doing, in your opinion, that is driving patients away or
 18 helping you in your trend line because of, I guess,
 19 their mistreatment of patients, what are you seeing or
 20 hearing?
 21 A. I have patients tell me stories about things
 22 that happen to them in the hospital that they were
 23 unhappy with.
 24 Q. Uh-huh.
 25 A. I have patients tell me of injuries that

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1 Q. Okay.
 2 A. I was brought in as an employee for Cindy
 3 Besson. At the end of my contract, which was like a
 4 year and six months, we could not come to a resolution
 5 regarding the contractual -- or the contract that she
 6 offered me.
 7 Dr. Hoover was not happy with the contract
 8 either. The practice broke down. Dr. Besson
 9 essentially kicked Judith and I outside one day. And we
 10 wound up setting up camp temporarily on a facility on
 11 the south side and scrambled to set up Parkside Medical
 12 Center. And then we practiced for three or four years
 13 together, and then broke up mostly because of
 14 profitability issues.
 15 It was a 50/50 partnership, and she was not
 16 bringing in her 50 percent of the revenue. And I asked
 17 her to renegotiate the contract, which created a great
 18 amount of anger. And then subsequently left, which
 19 created a great amount of anger. I sold her that
 20 building and practice.
 21 Q. I'm sorry, the last part?
 22 A. I sold her the building and practice.
 23 Q. As part of a legal settlement, I guess, at
 24 that point or not?
 25 A. More like a divorce, I guess is what I would

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1 call it. I don't know what it is in lawyer terms.
 2 MR. SOWELL: Travis. Can we go off the
 3 record?
 4 MR. DAYHUFF: Sure.
 5 (Off the record.)
 6 BY MR. DAYHUFF:
 7 Q. When Besson, you and -- when you split from
 8 Besson, you and Hoover split from Besson, and you had to
 9 go set up practice somewhere else, did K.D. Justyn
 10 assist you with finding a new place to practice?
 11 A. She assisted Judith and I in finding a
 12 location to rent.
 13 Q. Okay. Was she helpful to you during that
 14 time?
 15 A. At that particular time she was helpful to
 16 us.
 17 Q. Okay. You mentioned that you and Hoover
 18 split primarily over profitability issues?
 19 A. Uh-huh.
 20 Q. Were there other issues?
 21 A. On my part or her part?
 22 Q. Let's start with you.
 23 A. There was other issues.
 24 Q. Okay. Like?
 25 A. Her husband is a certain kind of man and he

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1 Q. I'm not saying she does, but I was just
 2 curious. Okay. Any quality issues in play when you
 3 split from Besson, on either side?
 4 A. No.
 5 Q. Okay.
 6 A. But it --
 7 Q. Have you ever sought help from K.D. other
 8 than -- obviously you sought her assistance with a
 9 recruitment of a new partner and a subsidy for the new
 10 partner. And we've talked about how she provided you
 11 and Dr. Hoover with some space, provided a rental space
 12 for you. Have you ever approached her for assistance of
 13 any other kind?
 14 A. She approached Judith and I and offered to
 15 bring in another partner and was actively helping us
 16 recruit partners. And then when I split from Judith,
 17 she offered to continue to help me.
 18 Q. Okay.
 19 A. And she said some derogatory things about
 20 Dr. Hoover and that she felt that Dr. Hoover was not
 21 capable of maintaining a patient base in the community
 22 like I was; and therefore, she was going to continue to
 23 help me and not Dr. Hoover.
 24 Q. Okay. Any other instances of when she
 25 assisted you or tried to help you?

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1 insisted on participating in the business aspect of the
 2 practice and he had a negative impact on the younger,
 3 more attractive female employees of the practice.
 4 Q. Okay. So his role in the practice, I
 5 understand. What was her issue -- other issue with you?
 6 A. She got angry when I asked her husband --
 7 when I explained to her that her husband was becoming a
 8 potential legal liability to our corporation and that he
 9 could no longer be in the facility when there was
 10 anybody under the age of 50 or female.
 11 Q. Any quality-of-care issues play a part in
 12 your split?
 13 A. Yes.
 14 Q. All right. Tell me about those.
 15 A. Dr. Hoover, I felt, was a liability as a
 16 partner.
 17 Q. All right. Well, with respect to her quality
 18 of care?
 19 A. Correct.
 20 Q. All right. Did she feel the same way about
 21 you?
 22 A. I do not believe she did.
 23 Q. Okay.
 24 A. She may say she does now, but at that time,
 25 no, she did not.

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1 A. Not that I can recall.
 2 Q. Okay. Bamberg -- well, let me wait before I
 3 go there.
 4 I want to understand one other thing about
 5 the practice, maybe two other things. And then I'm
 6 going to talk about where you have privileges and where
 7 you've tried to get privileges.
 8 But before we go there, I want to understand
 9 how -- you mentioned this pulling call idea, right, at
 10 the hospital. How did that work? I know that you have
 11 no call anymore. How did that work for you? Who did
 12 you pull call with?
 13 A. For several years I pulled call with Boehner,
 14 Boone, Minto, and Dr. Hoover. And we were a group of
 15 five.
 16 Q. Okay.
 17 A. And we covered our own patients during the
 18 week, and then we covered each other on the weekends
 19 starting Friday at 5:00 p.m. until 7:00 on Monday.
 20 Q. Okay. All right. And how was that
 21 scheduled? How did you guys do it? Did the hospital
 22 schedule that? Did you schedule that?
 23 A. Dr. Boehner scheduled that.
 24 Q. Dr. Boehner gave you a schedule and your name
 25 was on it at some point and then you would show up?

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1 A. On the weekends.

2 Q. Okay.

3 A. He would tell us which weekend we were
4 working, and then we would divvy up. He would call all
5 of us and ask us what holiday we wanted, and the
6 holidays would rotate according to who got what last
7 year.

8 Q. Would the hospital also keep a schedule of
9 what practice was on or what group who pulled call
10 together was on at what particular time?

11 A. The hospital has always known it's reasonable
12 and customary for all call groups to cover themselves
13 during the day. And so, for example, if somebody comes
14 in for Dr. Minto and her partner, Dr. Boehner, is on
15 call for her, they would call Dr. Boehner. They
16 wouldn't call -- you know, the -- what we used to call
17 "mega call." Mega call was exclusively for weekends and
18 holidays. And that tradition continued when I switched
19 call groups to Dr. Daniels and Dr. Daniels and
20 Dr. Bryan.

21 Q. Okay.

22 A. So we could continue to have, quote, mega
23 call on the weekends, but we would cover our own
24 patients during weekdays.

25 Q. Okay. Why did your call relationship with

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1 A. If I remember correctly, I went up and I
2 talked to K.D. about it directly. And I submitted a
3 letter. And then they queried me about the incident,
4 and I responded.

5 Q. Okay. You submitted a letter to K.D. or to
6 the medical peer review committee?

7 A. To the medical peer review committee.

8 Q. Who was the chairman of the medical peer
9 review committee at that time?

10 A. At that time, I want to say it was Jonathan
11 Anderson.

12 Q. Okay. And then you were queried about it
13 subsequently?

14 A. Uh-huh.

15 Q. Who queried you?

16 A. The peer review committee queried me because
17 in the process of doing the C-section, there was a
18 bladder tear, which I repaired. And the lady did fine.
19 But the nurses did not do the proper irrigation to the
20 catheter, and Dr. Mintos, when she took over call on
21 Monday, did not adhere to the proper protocol nor did
22 the nursing staff and subsequently the bladder became
23 clogged up and they had to go back in and repair it.

24 Q. Okay. So who was being reviewed, you or
25 Dr. Minto, by the medical peer review committee or both?

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1 Boone, Boehner, Hoover, Minto cease?

2 A. There was an incident with one of Dr. Minto's
3 patients that was medically inappropriate on her part,
4 and it resulted in a C-section without anesthesia. And
5 when I called it to her attention, the deficits that she
6 had made, she cussed me out and became physically
7 threatening. And after that, she didn't want to cover
8 my patients anymore because she didn't like the fact
9 that I had called her to the mat on poor quality of
10 care. And as she so succinctly puts, "There's only
11 going to be one hen in this hen house, and it's going to
12 be me."

13 And so Dr. Boehner tried to arrange a call
14 arrangement where it would be us and then she would
15 just -- her and I would not ever cross paths, but he
16 couldn't -- it was mathematically very difficult for
17 him. And so I just volunteered to pull call with, you
18 know, the other people.

19 Q. Okay. This case in which you allege
20 Dr. Minto rendered medically inappropriate care that
21 resulted in the C-section without anesthesia, did you
22 bring that to the attention of the medical peer review
23 committee at ARMC?

24 A. I did.

25 Q. All right. How did you do that?

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1 A. I have no idea if they reviewed Dr. Minto or
2 not. I suspect not.

3 Q. Okay.

4 A. But they were asking me about the incident.

5 Q. Because they believed that the bladder
6 laceration --

7 A. Correct.

8 Q. -- was an incident that they needed to
9 review?

10 A. Correct.

11 Q. Okay. Was that incident that we're talking
12 about, that was one of the five cases in 2009; is that
13 right? Because I remember C-section without anesthesia.
14 You don't have to look. You don't have to look. It's
15 okay. Do you recall whether or not it was one of the
16 five cases at issue in 2009?

17 A. I do not recall.

18 Q. Okay. Have you -- I mean, a C-section
19 without anesthesia would be a relatively rare thing, I
20 would think.

21 A. It's happened, as far as I know, six times at
22 ARMC. And I had had several conversations, along with
23 other physicians, to K.D. about how concerned we are
24 regarding that issue and that we felt, as an OB/GYN
25 unit, that there should be an on-call at least nurse

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1 anesthetist in the hospital at all times. And she said
 2 it was not cost effective.
 3 Q. How often have you done a C-section without
 4 anesthesia?
 5 A. Just that one time.
 6 Q. One time. All right.
 7 Let's talk about privileges a little bit.
 8 The first place I want -- I've seen some documents from
 9 you, and I understand from David there are more in there
 10 that I have not seen. It looked to me like I had
 11 partial applications for various places. Do you know
 12 why I would have had partial applications rather than
 13 the entire application?
 14 A. I don't have a direct knowledge of why. My
 15 estimate would be that there has been so much
 16 transaction of paperwork that it's lost somewhere in
 17 these 500 boxes of paper. But all applications were
 18 filled out in their entirety.
 19 Q. Okay. All right. Well, is it possible that
 20 the reason I don't have complete applications for some
 21 is that with the passage of time parts of the
 22 applications have been lost or discarded?
 23 A. I have no idea --
 24 Q. Okay.
 25 A. -- without looking through all of these boxes

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1 computer?
 2 A. It's a home computer --
 3 Q. All right.
 4 A. -- that I filled out the application online
 5 with. And then the HCA application was filled out by my
 6 office manager on her computer.
 7 Q. All right. Which would be an office
 8 computer. And then you would have paper copies in the
 9 avalanche of paper, right?
 10 A. Uh-huh.
 11 Q. Would you have letters that would accompany
 12 those applications?
 13 A. Define.
 14 Q. To and from places where you wanted to get on
 15 staff. "I'm Dr. Muniz, I'm interested, send me an
 16 application."
 17 A. There was a lot of phone calls. Most of it
 18 was phone calls.
 19 Q. Well, the natural --
 20 A. A lot of these places you had to go and talk
 21 to before they would even give you an application.
 22 Q. Okay.
 23 A. And a lot of the places I went and I talked
 24 to, when they found out or looked at what was going on,
 25 wouldn't even look at me.

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1 of paper.
 2 Q. Okay. Well, is that a reasonable explanation
 3 or unreasonable, in your mind? I mean, you know your
 4 documents better than me.
 5 A. I would say I know that somewhere in my
 6 computers I have complete and entire documents. And so
 7 if the documents you require cannot be obtained, I will
 8 do my best to find them.
 9 Q. Okay. You retain all the applications in
 10 your computer in PDF or some format? How do you do
 11 that?
 12 A. Well, the applications to the V.A. was an
 13 electronic application. The second time I applied to
 14 Doctors, they had switched to a centralized
 15 e-credentialing thing. And then I've got hard copy
 16 stuff buried in an avalanche of paper somewhere. I've
 17 tried scanning some things in, trying to get it all
 18 organized.
 19 Q. So if we were thinking about, just kind of
 20 globally thinking about the kind of documents you would
 21 have regarding your applications for privileges at
 22 various places, you would have some documents on your
 23 computer, right?
 24 A. Yes.
 25 Q. Is that a practice computer or a home

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1 Q. Okay. I'm just -- and we'll get to that.
 2 I'm just trying to understand the universe of documents
 3 that may or may not exist regarding these things.
 4 So some of these were phone calls. When you
 5 call up a place and they say, "Okay. We're going to
 6 send you a preapplication or an application," that would
 7 come to you electronically or in paper form?
 8 A. Both.
 9 Q. Both. Okay. And so for every application
 10 where you got somebody to send you a response, you
 11 should have a letter that accompanies it or an e-mail?
 12 A. I don't understand your question.
 13 Q. Well, if you call somebody up and they say,
 14 "Okay. We're going to send you a preapplication or an
 15 application," you would either receive or your practice
 16 would receive an electronic communication, an e-mail,
 17 "Here's your application with an attachment," or you
 18 would receive a letter in the mail, paper, that would
 19 come to you?
 20 A. We would receive the application in the mail
 21 but not a letter.
 22 Q. Okay. They didn't send a cover letter that
 23 says, "Hey, thanks for calling us. Here's the
 24 application we need you to fill out. I'm the medical
 25 staff coordinator at University"?

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1 A. If they did, I never saw it.
 2 Q. Okay.
 3 A. But in general, those forms are filled out by
 4 my office manager.
 5 Q. All right. Would it have been your office
 6 manager's practice to retain every single letter that
 7 came or is the focus going to be on the application?
 8 A. The focus would be on the application.
 9 Q. So it's conceivable, is it not, that certain
 10 of the letters would have been discarded in the normal
 11 course?
 12 A. It is conceivable.
 13 Q. All right. Okay. A lot of times folks have
 14 issues with hard drives and the like. Have you had
 15 anything like that where you've had hard drives go down
 16 either at your practice or at your home that could
 17 account for the fact that I don't have all the documents
 18 about a particular application? Has anything like that
 19 happened to you?
 20 A. Yeah.
 21 Q. Okay. At your practice?
 22 A. Yeah.
 23 Q. Okay. And at your home?
 24 A. Yeah.
 25 Q. All right.

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1 Q. -- when they came to you?
 2 What is your privileges relationship, if any,
 3 with Bamberg Hospital? I hear you do something for
 4 them, and I don't know what it is.
 5 A. Bamberg Hospital is now closed.
 6 Q. Okay. Well, that must be recent.
 7 A. Yes.
 8 Q. When did Bamberg close?
 9 A. Two weeks ago -- no, more than that. Maybe
 10 three weeks ago.
 11 Q. Okay. Did you have some sort of a privilege
 12 relationship with Bamberg before they closed?
 13 A. I was a contractual employee, so I guess that
 14 would be my third job. And I was doing an outpatient
 15 women's clinic for them, and I was given privileges to
 16 do minor procedures only. But this is a very tiny
 17 hospital --
 18 Q. Uh-huh.
 19 A. -- in rural, rural South Carolina.
 20 Q. The minor procedures you were privileged to
 21 do, what were those?
 22 A. Your basic minor procedures.
 23 Q. The ones we've discussed heretofore?
 24 A. Correct.
 25 Q. Good. All right. Did you seek to get

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1 A. But not as much as at the practice. There's
 2 two MRI machines that run on our floor, and then there's
 3 a giant one that runs downstairs. And there was a
 4 period of time there where every time -- I mean every
 5 day at 2:00 when they would turn on that big scanner, it
 6 would blow off our Internet. It would just shut us
 7 down. It was crippling.
 8 Q. Okay.
 9 A. In the conversion to EMR, the front end is
 10 all run -- the scheduling is run by EMR and that type of
 11 stuff. So, yes, that's entirely conceivable.
 12 Q. All right. So in addition to things being
 13 discarded in the normal course by office folks when they
 14 come in, things meaning applications and letters and
 15 stuff, you could have also lost some data due to
 16 computer hard drive failure?
 17 A. Yes.
 18 Q. Okay.
 19 A. Because we don't use Apple.
 20 Q. Okay. All right. Have you ever received --
 21 well, we'll come back to that. Let's talk about the
 22 actual places a little bit. You mentioned to me that
 23 all the applications you filled out, they were filled
 24 out in their entirety, right --
 25 A. Uh-huh.

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1 privileges beyond the minor stuff?
 2 A. I did.
 3 Q. All right. What happened with that?
 4 A. It went nowhere.
 5 Q. Okay. You filled out an application for
 6 those privileges?
 7 A. Uh-huh.
 8 Q. And what happened?
 9 A. They wanted to watch me and see how I did on
 10 the minors. And then their plan was for expansion and
 11 to eventually someday build an OB/GYN unit. But there
 12 was a situation with their CEO, and he got invited to
 13 leave. And then there was an interim CEO and then
 14 another CEO and then they closed.
 15 Q. Okay. Now, the idea that they would watch
 16 you. They would have an OB/GYN on staff monitor your
 17 cases?
 18 A. I state that metaphorically.
 19 Q. Okay. It wasn't a formal procedure they
 20 proposed?
 21 A. No. They wanted to make sure that their
 22 hospital could handle gynecologic procedures. The
 23 majority of the procedures that they did at that
 24 particular time when I applied was port access for
 25 dialysis.

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1 Q. Okay.

2 A. There was a gentleman out there named

3 Dr. Ross who was doing, I understand, up to 300 of these

4 ports a month. So that's really what the whole hospital

5 was designed around.

6 Q. Dialysis?

7 A. Yes.

8 Q. Ports?

9 A. And ports.

10 Q. And you were invited in in hopes of being the

11 seed for an OB/GYN?

12 A. Well, Dr. Bryan was, and then Dr. Bryan would

13 have needed a partner. And so that's how I kind of came

14 into the picture.

15 Q. Okay. How were you paid? You said contract.

16 Was it hourly, was it --

17 A. It was. With the first CEO, it was just a

18 set sum. But we got one payment, and then we never got

19 paid again. And then there were some discrepancies, I

20 guess, with the monies. And that's when he was invited

21 to leave. And then so basically I worked out there for

22 no reason at all other than to help rural America, which

23 is fine, but being paid would have been good.

24 And then the new CEO came in, and he

25 negotiated a different contract where I would be given

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1 Q. Okay. Would that be something that you

2 retained or -- that wouldn't be one of the things that

3 would be discarded?

4 A. No, it would probably be somewhere.

5 Q. Okay.

6 A. My husband negotiated that contract, but like

7 I said, that didn't last very long either because then

8 there was a third CEO and then it closed at the end.

9 Q. All right. Let's see. Was there going to be

10 the opportunity -- well, do they deliver babies at

11 Bamberg?

12 A. No.

13 Q. It's too small?

14 A. Not for years. Not for years. And their

15 equipment was not -- this was like a five-year dream.

16 Q. Okay. I have in an interrogatory response

17 that you applied for privileges at Doctors Hospital in

18 Augusta, Georgia. Is that true?

19 A. Yes, sir.

20 Q. All right. Do you recall when you applied?

21 Before or after the suspension, both, the 2010

22 suspension?

23 A. Before the suspensions.

24 Q. Before. Okay.

25 What was the result?

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1 \$1,500 a month to go out there and see patients.

2 Q. Okay.

3 A. You know, but we billed for the patients, and

4 they got the ancillary services.

5 Q. Okay. And in addition to that, you got 1,500

6 bucks --

7 A. Right.

8 Q. -- to compensate you for what, traveling

9 there?

10 A. Yes.

11 Q. Okay.

12 A. And bringing my entire staff with me.

13 Q. Got you.

14 A. And it was a subsidy.

15 Q. Okay.

16 A. Over a two-year period.

17 Q. All right.

18 A. So ...

19 Q. Are there documents that reflect or

20 memorialize this relationship you had with Bamberg?

21 A. I believe that there are.

22 Q. Written contract?

23 A. I believe that there is.

24 Q. Okay. Do you have that?

25 A. Not on me.

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1 A. I went over the first time and I met with a

2 group of doctors and presented my proposal. And at that

3 time I was going to be pulling call with Dr. Grossman

4 and his potential new partner, Dr. Wilson. And they

5 were all very excited about it. And I submitted my

6 application, and there was a delayed response on the

7 part of ARMC until after they were able to hit me with

8 the peer review.

9 Q. All right. So you think ARMC delayed their

10 response in an effort to sabotage your application to

11 Doctors Hospital?

12 A. Yes.

13 Q. All right. What evidence do you have of

14 that? I know you believe it, but what evidence do you

15 have of it?

16 A. The timeline.

17 Q. Okay. Anything other than the timeline?

18 A. The fact that, once again, the gossip tree

19 told me that they had received the letters up on the

20 sixth floor and that they were extremely angry.

21 Q. When you say the "gossip tree," who?

22 A. You know, you're asking me to quote

23 physicians from, you know, several years ago. You walk

24 into a doctor's lounge, there may be seven or eight

25 doctors in there. One or two of them, you know, may say

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1 something to you to the effect of, "Hey, I heard that
 2 you applied to Doctors. It's up on the sixth floor.
 3 You're screwed."
 4 Q. Okay.
 5 A. That type of thing.
 6 Q. If somebody said that to me, "Hey, Travis,
 7 you're looking to go to Biff's firm, they know about
 8 that upstairs. Morrison knows about it, and you're
 9 screwed." I would remember who told me that.
 10 Do you remember who told you that?
 11 A. I remember comments from Dr. Page. I
 12 remember comments from Dr. Daniels Sr.
 13 Q. All right. What do you recall Dr. Page
 14 telling you?
 15 A. Essentially that.
 16 Q. Essentially that or actually that?
 17 A. It was years ago.
 18 Q. "You're screwed"?
 19 A. Yes. Yes.
 20 Q. Okay. That kind of language?
 21 A. "You're in trouble. You're --" that kind of
 22 thing.
 23 Q. All right. Dr. Daniels?
 24 A. Dr. Daniels told me that I needed to be very,
 25 very careful and that they were working on getting rid

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1 Q. Put it in limbo?
 2 A. You know, "Yes, and I'll try and get this
 3 matter resolved."
 4 Q. Okay. Have you ever asked them to take it
 5 out of limbo and process your application?
 6 A. No, because after that my privileges were
 7 terminated.
 8 Q. Okay. So you agreed to have your application
 9 tabled or put in limbo and have not asked them to
 10 reconsider it since that time?
 11 A. I wasn't able to because I was already told
 12 that there was no point in me proceeding since I had had
 13 my privileges pulled.
 14 Q. Who told you that?
 15 A. The gentleman that I talked to on the phone
 16 who was the head of the -- the head of the credentialing
 17 committee at the time. And now I don't remember his
 18 name, but I do remember that he was a cardiologist.
 19 Q. Okay.
 20 A. And he said, "Once you get that straightened
 21 out," he said, "then call us." He said, "But the board
 22 of governors at University is nervous because of the Ann
 23 Drayton-Smith affair and that they had recently had a
 24 problem with another doctor. So they were skittish."
 25 Q. Okay. Trinity Hospital, is that in Augusta?

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1 of me because of my applications.
 2 Q. And you were in the doctors' lounge when
 3 these things were said to you?
 4 A. And other places. Once he talked to me on
 5 postpartum.
 6 Q. Okay. University Hospital, did you apply for
 7 privileges there?
 8 A. Yes.
 9 Q. Before the 2010 suspension revocation or
 10 after or before and after?
 11 A. I applied before, and then I had several
 12 phone conversations with them after. The conversations
 13 afterwards were not documented because they were phone
 14 calls. And they said that they were having a tough time
 15 getting what they needed from ARMC and that now -- and
 16 then after I had been suspended, they told me that that
 17 issue would need to be resolved before they would look
 18 at my application further and would I like it to be put
 19 on hold. They had a special word for it, but in essence
 20 put in limbo.
 21 Q. Table it?
 22 A. No, that wasn't the word.
 23 Q. That's all right. I know what you mean.
 24 So what did you say?
 25 A. I said, "Yes, please."

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1 A. Yes.
 2 Q. Okay. Did you apply there?
 3 A. Yes.
 4 Q. When?
 5 A. I want to say that it was after I had got my
 6 privileges reinstated after the first peer review hit.
 7 Q. Okay. All right. What happened with that
 8 application?
 9 A. I filled it out. I had a talk with him about
 10 some of the things that had been going on. He said, "Go
 11 ahead and fill out the application."
 12 I filled out the application. I didn't know
 13 how to answer certain questions because the
 14 deliberations weren't complete. And I asked a mentor of
 15 mine what the appropriate response would be and wrote
 16 down what he told me to write down. And then they
 17 didn't like the way I filled it out. And they had
 18 gotten, apparently, some sort of letter from ARMC that
 19 was -- whatever. And so they said that I had filled out
 20 the application improperly and therefore nullified my
 21 opportunity.
 22 Q. Who was your mentor that advised you about
 23 how to fill it out?
 24 A. I had talked with Dr. Smith about it a little
 25 bit, Dr. Terry Smith, on how he would do it. And what

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1 did they mean by that questions -- some of these
2 questions. And Dr. Cruickshank, how he would have, you
3 know, handled it.

4 Q. That's your guy from residency, right?

5 A. Correct.

6 Q. And what was the question that you were
7 struggling with how to answer?

8 A. I honestly don't remember. There was two
9 questions and they were weird and I didn't know how to
10 answer them.

11 Q. Do you remember anything about them?

12 A. It was something to do with the fact of -- it
13 was the way that they were worded. It was -- have you
14 had -- and I'm not going to stake my life on this, but
15 it was something to the effect of, you know, for
16 example, have you ever had your privileges permanently
17 pulled? And so my question would have been something
18 like, "Does this count?"

19 Q. The first peer review action?

20 A. Right. Is that, like, permanent, you know,
21 or should I put it down there because it happened and
22 then it unhappened? I was cleared of all charges. So
23 because I was cleared of all charges, does that count as
24 an event? Or the question may have been something to
25 the effect of: Were there any events, you know, that

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1 were not treating patients, was that when you were
2 trying to negotiate the end of this as it went up to the
3 board? Is that the suspension you're talking about
4 there?

5 A. I don't understand the question.

6 Q. Okay. All right. When do you recall being
7 suspended as part of the first peer review action, if
8 you do at all.

9 A. I recall being suspended for questioning and
10 not doing the psych evaluation until it was proven to me
11 as to why it was required.

12 Q. Okay. All right. That's my understanding,
13 too, is that at the very end of that 2009 peer review
14 process, there was a dispute about whether or not you
15 were going to do the psych evaluation and the hundred
16 percent case review that the board wanted you to do.

17 Do you recall that?

18 A. Yes.

19 Q. All right. And because you didn't comply
20 with the board's recommendation to that effect, their
21 ultimate recommendation, you were suspended for a short
22 period of time. Is that your recollection?

23 A. Yes. I would say that's accurate.

24 Q. And then ultimately with the assistance of
25 your attorneys, it looked like you resolved that

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1 resulted in like prolonged blah? And, you know. And
2 then my question would have been, you know, what counts
3 as an event? It was that sort of a scenario. And so I
4 used their advice, and it was apparently the wrong
5 answer.

6 Q. Okay. And in the 2009 peer review, your
7 privileges were not suspended or revoked, were they?

8 A. 2009 peer review.

9 Q. The peer review regarding the five cases.
10 Didn't you maintain your privileges during the pendency
11 of that one?

12 A. If I remember correctly, I was cleared of all
13 charges. But there was a claim -- a qualifier claim on
14 my release that I had a disruptive personality and
15 needed to be assessed by a forensic psychiatrist.

16 Q. I remember that. I want to ask a little
17 different question. We'll get to the hearing panel
18 reports at some point.

19 Did you continue practicing during that first
20 peer review process, or did they take your privileges
21 such that you were not treating patients in the hospital
22 while that was all played out?

23 A. I was not treating patients in the hospital
24 for a short period of time while that all played out.

25 Q. Okay. And that short period of time that you

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1 dispute, underwent the psychological evaluation, agreed
2 to a hundred percent case monitoring for a year or
3 whatever and then you were reinstated. Is that your
4 recollection?

5 A. No.

6 Q. Okay. What do you recall? What's wrong with
7 what I just said?

8 A. I agreed to undergo the forensic evaluation
9 and was cleared of the charge regarding my psychiatric
10 fitness. It was forced upon me to undergo one hundred
11 percent monitoring.

12 Q. Okay.

13 A. And I was never told, despite multiple
14 requests, what I was being monitored for, why, who was
15 doing the monitoring. And because I had been cleared of
16 clinical incompetence and I had been cleared of
17 psychiatric issues, why did I require one
18 hundred percent monitoring? And that question was never
19 answered.

20 Q. Okay. So you don't recall agreeing to the
21 hundred percent monitoring part of it?

22 A. I did not agree to the hundred percent
23 monitoring.

24 Q. You did agree to go get the psychological
25 evaluation?

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1 A. I did agree to get the psychological
2 evaluation.
3 Q. Fair enough.
4 So you apparently answered that question, we
5 were talking about the question for Trinity Hospital, in
6 a way that didn't disclose the suspension that we were
7 just talking about?
8 MR. DICK: Object to the form.
9 THE WITNESS: Yes.
10 BY MR. DAYHUFF:
11 Q. And when ARMC provided Trinity information
12 about your credentials at ARMC, they disclosed the
13 suspension?
14 A. I have no idea what they said to them.
15 Q. Well, I think you said a minute ago that
16 whatever ARMC sent over.
17 A. What I said was whatever ARMC sent over there
18 resulted in them not allowing me to have the privileges.
19 Q. Right.
20 A. And they stated that it was because I had
21 filled out the application improperly.
22 Q. Okay. I guess I was thinking that logically
23 ARMC must have said to them you were suspended for a
24 period of time, and that contradicted what you had said
25 in your application.

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1 A. I do not recall.
2 Q. Okay.
3 A. I will look.
4 Q. That's okay.
5 Let's see. Was there any e-mail exchanged
6 between you and the person at Trinity who you made this
7 disclosure to?
8 A. No.
9 Q. Just phone call?
10 A. No. We met with him in person.
11 Q. Okay.
12 A. My husband and myself.
13 Q. And who was it, do you recall?
14 A. I don't remember the gentleman's name. I
15 remember his office. He had a secretary in the front
16 and it was blue carpet and it was a horrible office.
17 That's all I remember.
18 Q. Lexington Hospital, did you apply at
19 Lexington Hospital --
20 A. I did.
21 Q. -- for privileges? Before or after the
22 suspension revocation or both?
23 A. After.
24 Q. After. Okay.
25 What happened with that application?

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1 MR. DICK: Object to the form.
2 BY MR. DAYHUFF:
3 Q. Go ahead.
4 A. I don't recall what my answer was on the
5 application without looking at the application. And I
6 wouldn't be able to answer that question unless I was
7 allowed to see what ARMC sent to the hospital because
8 the gentleman that we had talked to, I had told him I
9 was having problems at ARMC. And so I figured my
10 verbal --
11 Q. Disclosure?
12 A. Thank you. Verbal disclosure --
13 Q. Would suffice?
14 A. -- would suffice.
15 Q. Okay.
16 A. But apparently he has nothing to do with the
17 actual credentialing committee, which I obviously did
18 not understand. So he obviously never told them, but I
19 had assumed that he would have mentioned that. So ...
20 Q. Understood. So that's what happened with
21 Trinity.
22 Do you recall whether you retained all the
23 documents regarding that application?
24 A. Regarding the Trinity application?
25 Q. The Trinity one.

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1 A. I made several phone calls. The person that
2 I wanted to partner up with is a close friend that I did
3 residency with. She had several talks with the powers
4 that be. They agreed to talk to me. I had filled out
5 the initial application. And then I had tried to
6 arrange several meetings with this lady, but it kept on
7 getting delayed, delayed, delayed, delayed. And then
8 eventually we got to meet. And we talked about it, and
9 she said she would let me know. And then she called me
10 later and told me, "Thank you so much for applying, but
11 we don't believe that you would be an appropriate fit
12 for Lexington."
13 Q. Okay. And did she say why?
14 A. No.
15 Q. And did you ask?
16 A. Yes.
17 Q. And she wouldn't tell you?
18 A. No.
19 Q. Okay. Did you fill out the application?
20 A. What I can tell you is, you know, my friend
21 felt that it was obviously my situation.
22 Q. Do you know whether it was the way you filled
23 out that application that resulted in the rejection?
24 A. No.
25 Q. How do you know that?

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1 A. Because I filled it out properly.
 2 Q. You disclosed the suspensions?
 3 A. Well, I had learned what the proper way to
 4 fill out an application was.
 5 Q. So you did disclose the peer review actions,
 6 suspensions, revocation to Lexington?
 7 A. Correct.
 8 Q. All right. I've got locum tenens positions
 9 in S.C., Georgia, and Alabama. Did you apply for locum
 10 tenens positions in those states -- with companies in
 11 those states?
 12 A. No. I think you're confused. I applied to a
 13 locum tenens agency called MDA, Inc.
 14 Q. Okay. MDA, Inc.
 15 A. And without my notes in front of me or my
 16 computer in front of me or my little pad of paper in
 17 front of me, I don't remember who the contact lady was.
 18 And I was unable to get any positions because of my
 19 situation.
 20 Q. MDA, Inc.?
 21 A. Yeah. A lot of hospitals will not even look
 22 at you if you've had your privileges revoked for any
 23 reason.
 24 Q. All right.
 25 A. So that essentially negated me from all locum

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1 Q. Okay.
 2 A. And I had extensive conversations with these
 3 people regarding the situation.
 4 Q. How about e-mails with those people?
 5 A. No. That would have been too much to type.
 6 Q. You mentioned notes, your pad of paper with
 7 notes regarding this. Did you take notes as you were
 8 doing the --
 9 A. I would write down the lady's name and her
 10 number and the company, you know, so if she called me.
 11 And then I would list what hospital she thought might
 12 take me. And then she would call me back and say,
 13 "Okay, call these people," and "this isn't going to
 14 happen." And then after a while I just gave up.
 15 Q. Okay. Would you have retained those notes,
 16 or would that have been something you would have
 17 discarded in the normal --
 18 A. I would have thrown that away. That's scrap
 19 paper.
 20 Q. Okay.
 21 A. That's a Post-it kind of thing.
 22 Q. Got you. So it wouldn't have been a notebook
 23 of my attempt to get privileges that you kept like in a
 24 three-ring binder somewhere, much more causal than that?
 25 A. Yes, because at that time I didn't realize

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1 tenens positions.
 2 Q. All right. Any other locum tenens
 3 organizations that you recall applying to?
 4 A. There was another one called Weatherby.
 5 Q. Okay.
 6 A. And same thing. I had discussed the
 7 situation with a handler, for lack of a better word.
 8 And she had called multiple places trying to get me
 9 jobs, but nobody was interested in looking at me.
 10 Q. Okay. MDA, Inc., Weatherby. Any other locum
 11 tenens that you recall?
 12 A. No.
 13 Q. Okay. And if I understand your testimony on
 14 the locum tenens, the reason you did not get accepted
 15 was it had nothing to do with the way you filled out an
 16 application, right?
 17 A. No.
 18 Q. It had to do with the fact that you had
 19 been -- your privileges had been revoked at ARMC?
 20 A. Uh-huh.
 21 Q. And you're sure that you disclosed everything
 22 in those applications --
 23 A. Yes.
 24 Q. -- regarding your peer review?
 25 A. Yes.

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1 how horrific this whole thing would turn into.
 2 MR. DICK: Travis, you've got the e-mails.
 3 That's what's in there. All the e-mails related to
 4 locum tenens positions.
 5 MR. DAYHUFF: I have no idea what's in there.
 6 I appreciate it.
 7 BY MR. DAYHUFF:
 8 Q. So the e-mails that you were able to find --
 9 and these were found on the practice computer or the
 10 home computer or both?
 11 MR. DICK: These were forwarded from her.
 12 THE WITNESS: The practice computer.
 13 MR. DICK: You would have to ask her.
 14 THE WITNESS: A lot of it was my home
 15 computer.
 16 BY MR. DAYHUFF:
 17 Q. Okay. Would there also be -- sounds like
 18 from your prior testimony there could also be e-mail
 19 correspondence on your personal computer related to your
 20 attempts to get privileges?
 21 A. Yes. But most likely they would be
 22 duplicates.
 23 Q. Okay.
 24 A. Because a lot of times what I do is I will
 25 forward myself something, you know, so that I could keep

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1 it on my home computer, which was an XP. And we had a
2 small problem with the XP.

3 Q. Okay. So most likely your home computer had
4 duplicates, but you couldn't testify to that. You could
5 have stuff on your home computer that wasn't on your
6 work computer and vice versa, right?

7 A. Yes. That is a possibility.

8 Q. Okay.

9 A. I can certainly look for you.

10 Q. Okay. We'll take a list, perhaps, of things
11 we might want to follow up with you on discovery later.

12 A. Okay.

13 Q. So to summarize with respect to University,
14 Trinity, Lexington -- I'm sorry, forget it. I won't
15 summarize.

16 Any other hospitals that you recall? You've
17 listed -- we've gone over the ones that were provided to
18 me as a response to an interrogatory. Do you recall any
19 other hospitals?

20 A. I applied to a hospital in Alabama.

21 Q. Okay. What hospital was that? Maybe what
22 town, city?

23 A. It was part of the Baptist system. Walker
24 Baptist is what I want to say. And I went out there and
25 I interviewed. The recruiter was named Jason Spiece

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1 Q. I'm going to run through -- I'm going to try
2 to short circuit some of this privileging discussion. I
3 think we've discussed it a lot already.

4 I saw evidence in the documents that you had
5 applied for Conway Medical Center for privileges.

6 Do you recall that?

7 A. Yes, I do.

8 Q. Did you disclose to Conway that --

9 A. Absolutely. Absolutely.

10 Q. Okay. You disclosed that you had been
11 suspended or your privileges had been revoked?

12 A. Yes.

13 Q. And that was denied -- that application was
14 denied for privileges?

15 A. Uh-huh.

16 Q. Did you receive final word from Conway that
17 it was denied or did you pull the application or how did
18 that work?

19 A. I went out and I interviewed, actually,
20 twice. I interviewed with the doctor herself and she
21 knew my story. Her name is Dode Washington. Another
22 awesome opportunity. And so she wanted me, so she
23 talked to -- I can't remember his name right now, but it
24 will come to me. She talked to the chief of the
25 credentialing committee, so he said -- and she told him

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1 from Merritt Hawkins. And he and I had a very
2 exquisitely long conversation about my situation. He
3 felt this hospital and I would be a good fit, and that
4 they would be sympathetic to my situation, as he had had
5 other doctors that were victims of sham peer review that
6 had successfully placed. I went out there. He got me
7 the interview. I went out with my husband. We
8 interviewed. It was wonderful. Wonderful, wonderful
9 place. Wonderful place. Good place. I would have been
10 happy there.

11 Q. Okay. What happened?

12 A. I got offered the job. Jason Spiece called
13 me and he had placed many physicians at that hospital
14 and he was very excited. I think mostly about the
15 commission. And he asked that I sign a letter of
16 agreement not to look for anything else.

17 Q. Exclusivity?

18 A. Sure. Whatever the word for that is.

19 Q. Okay.

20 A. And I signed it, and I sent it back to him.
21 And he called me the next day at work and he said --
22 let's take a break, shall we?

23 MR. DAYHUFF: Sure.
24 (A recess transpired.)
25 BY MR. DAYHUFF:

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1 the story. And he said fine, you know. He had looked
2 up -- he had seen my CV. He had looked up my stuff. He
3 felt like I was worth looking at. So they brought me
4 out again and I interviewed with him and his assistant,
5 like CEO. I believe that I met with the CEO or the CFO.

6 Q. Bill Clayton is the CEO.

7 A. Okay. I met with one of them. And then I
8 met with this director. And then yadda, yadda, yadda.
9 Dode called me, and she told me that they weren't going
10 to give me privileges.

11 Q. Okay. Carolina Pines, have we discussed
12 Carolina Pines yet?

13 A. Carolina Pines, I believe, was one of the
14 locum tenens places that wanted a regular locum tenens
15 physician. And same thing. When I talked to the woman,
16 she was like, "Until you get this issue resolved," she's
17 like, "we cannot proceed."

18 Q. So you disclosed the issue fully to Carolina
19 Pines, the peer review issues?

20 A. Right.

21 Q. Palmetto Health Baptist, did you disclose the
22 peer review issues to them?

23 A. I did. The gentleman I interviewed with is a
24 friend of mine and was my former chief resident.

25 Q. Okay.

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1 A. They interviewed me twice. And although the
2 OB/GYN was quite sympathetic that I had -- the
3 credentialing committee was quite sympathetic, she said
4 it would be pretty much impossible to push this through
5 until a final answer was ...

6 Q. Okay. Did we meant Credent?

7 A. Credent.

8 Q. C-r-e-d-e-n-t. I don't know if it's a locums
9 group.

10 A. I would imagine it was be a locums group.

11 Q. Do you know whether or not you disclosed the
12 suspension revocations with them?

13 A. Quite frankly, I don't even remember talking
14 to them.

15 Q. Fair enough. Let's move on.

16 You talked about Weathersby, and I think you
17 told me you disclosed everything to Weathersby. Trinity
18 was the one you did not disclose.

19 A. Right.

20 Q. Doctors Hospital, did you --

21 A. Well, let me rephrase that.

22 Q. Well --

23 A. I disclosed it verbally.

24 Q. But not on the application?

25 A. Correct.

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1 institution this was sent to. To provide you some help
2 with the dates, there's a fax date on the bottom of each
3 page of January 27, 2010.

4 A. I think this was -- I think your date on the
5 bottom, you're misconstruing.

6 Q. Okay.

7 A. This is -- you got to remember, we were
8 faxing these back and forth to, like, everybody on the
9 planet. And I think the thing to do is find out where
10 the number was from. My husband filled out this
11 application for me. This is his handwriting. When I
12 first applied it to HCA, I hadn't been tapped yet. So I
13 want to say this is part of the first application of
14 HCA.

15 Q. All right.

16 A. That was when they were still doing paper
17 applications. And then the second HCA application was
18 the electronic one.

19 Q. All right. Take a look at the -- I guess
20 it's the next-to-the-last page. It's got what appears
21 to be your handwriting. The check is beside "courtesy."
22 Do you see that?

23 A. Uh-huh.

24 Q. And it says, "Would like to increase to
25 active as Dr. Bryan and I set up his office in

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1 Q. Doctors Hospital, did you disclose?

2 A. Yes.

3 Q. Bamberg?

4 A. Yes.

5 Q. HCA?

6 A. Yes.

7 Q. Okay. So other than Trinity, there's not a
8 single application when I get some time to go through
9 that that I will find where you didn't disclose the
10 existence of the suspension or termination?

11 A. As far as I recollect.

12 MR. DAYHUFF: Okay. All right. I want to
13 show you one. And as I mentioned to you, I kind of have
14 pieces of things right now. So I don't have a full
15 application to show you. Let's see if I can find it and
16 give you a copy.

17 (DEPT. EXH. 1, Application Portions,
18 MUNIZ_000918 through 000922, was marked for
19 identification.)

20 BY MR. DAYHUFF:

21 Q. For the record, this is a portion of an
22 application that's produced to me, Muniz 00918 through
23 922. Can you tell -- take some time to review this.
24 I'm particularly interested in the second page. As you
25 review it, I'm interested in knowing if you know which

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1 Barnwell." I don't know what that says.

2 A. These's are -- that's Barnwell.

3 Q. Does that help you identify this application?

4 A. These are not -- I don't think that this
5 is -- that these go together.

6 Q. That's how I received them. That's all I
7 know about them.

8 A. Yeah. I'm going to have to pull all of
9 these. Bamberg was fully aware of everything that was
10 going on, and we were absolutely honest with them. And
11 you can see that they were the only hospital that ever
12 received a response from ARMC talking about my
13 situation. And I met with the MEC committee and we
14 talked about my situation at length. And they all
15 know -- knew what was going on. And but I don't ...

16 Q. Hard to tell.

17 A. I think this piece --

18 MR. SOWELL: What page are you referring to
19 so there will be some record of it?

20 THE WITNESS: He's talking about Muniz page
21 000921 where I asked for courtesy privileges. And we
22 were trying to set up the OB/GYN clinic. But then he's
23 got this other page that is 000918, and it was faxed
24 January 27th from somewhere.

25 BY MR. DAYHUFF:

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1 Q. January 27, 2010.

2 A. Yeah. But I don't know. I can show it to my
3 husband and ask him which application. I think these
4 are different pieces.

5 Q. Okay. Take a look at 000919 for me, and
6 let's just establish on the record that under
7 disciplinary actions on 000919, no peer review
8 suspension is disclosed; is that correct?

9 A. There is -- yes, that's correct.

10 Q. Okay. And your testimony a moment before was
11 that the only one you could recall where you didn't
12 disclose the peer review sanction to was Trinity.

13 A. That is correct. But once again --

14 Q. Do you think this is Trinity is my question.

15 A. It might be.

16 Q. May be.

17 A. It may be. I don't know. I'll have to --
18 I'll have to pull my files, and I'll have my husband
19 look at this --

20 Q. Fair enough.

21 A. -- and see.

22 Q. That's okay. You've struggled with that long
23 enough unless you want to continue.

24 A. Yeah.

25 Q. Let me ask kind of a concluding question

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1 somewhat frivolous cases that most -- pretty much every
2 physician that looked at said normal people wouldn't
3 have even brought up to peer review, you know, occurred.
4 And then I was cleared of those charges.

5 Q. Okay. We're going to talk about that.

6 MR. SOWELL: Let her finish.

7 BY MR. DAYHUFF:

8 Q. Go ahead.

9 A. And then the same thing also happened with
10 Doctors. And then I continued to try it with Doctors
11 because they were the most sympathetic to my situation,
12 and when we filled out the second medical application,
13 the electronic one, they kept doing a stall technique.
14 They wouldn't send back applications. They said
15 electronic medical applications don't count. I had to
16 sign it by hand. And there was a paragraph in there
17 that said I agreed not to sue anybody that had ever been
18 associated with ARMC or any of its entities. And so I
19 wanted to strike that and ARMC, you know, essentially
20 wouldn't allow that to be stricken. And HCA needed it,
21 and so that's where that stalled up.

22 BY MR. DAYHUFF:

23 Q. Okay. So it sounds like there was some
24 holdup over the release language perhaps, right?

25 A. Sure.

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1 about this. You have alleged that ARMC has hindered
2 your efforts to get on staff. By the only thing I
3 understood, the only evidence you had of it is, well,
4 two things. One is the gossip or the grapevine. Is
5 that what you described it as, as a grapevine?

6 A. Uh-huh.

7 Q. And the timeline of responses for ARMC.

8 Can you provide me -- I understand what the
9 grapevine was. We've discussed that, right? What was
10 the timeline that causes you to believe ARMC has
11 intentionally thwarted your efforts to get on staff at
12 these other places?

13 A. What is the timeline?

14 Q. Right. That was kind of the other piece of
15 this that you said was your evidence of wrongdoing by
16 ARMC regarding your applications.

17 A. I'm not going to limit myself to dates
18 because clearly it's all blending together --

19 Q. Indeed.

20 A. -- after several hours. But in a nutshell,
21 the way it went down was I had started talking freely
22 with my call partners that I was intending to accept
23 University or try to get University privileges. And
24 then I applied, and then University never got my data.
25 And then shortly after that, six very bizarre and

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1 Q. The language of the release, right?

2 A. Well, first they didn't respond --

3 Q. Okay.

4 A. -- after several attempts, and then they
5 wanted it to be hand-signed. And then it went back and
6 they stalled more. And then they wanted it to be a hard
7 chart and then, you know, so and so on.

8 Q. This is just with respect to University?

9 A. Doctors.

10 Q. Doctors. Okay.

11 A. Which is also HCA.

12 Q. HCA. Got you. All right.

13 But you did offer objections to the release
14 language?

15 A. Yes.

16 Q. Okay.

17 A. After the third attempt, when they wanted me
18 to sign off on hard copy, sign off that I agreed not to
19 sue them.

20 Q. Okay.

21 A. Which, obviously, I couldn't do because they
22 had already started to destroy my life.

23 Q. Okay. All right. Any other evidence that
24 you have that ARMC tried to thwart your attempts to get
25 on staff at other hospitals, other than what you've told

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1 me? And that may be it.

2 A. Other than what happened with Alabama and

3 I -- yes, sure.

4 Q. All right. Well, you mentioned a specific

5 allegation about Dr. Anderson, I don't know, that he

6 sent some letter to one of the places where you were

7 trying to get privileges. Do you have any information

8 or any evidence that Dr. Anderson did anything to hinder

9 your ability to get privileges at any institution?

10 A. It's my understanding that he sent the letter

11 to University.

12 Q. Okay. And that letter said what?

13 A. I don't believe we've gotten a copy of it

14 yet.

15 Q. Okay. And that's what your discovery says to

16 me. Have you asked University for it? Do you know

17 whether your counsel or you have --

18 A. I don't.

19 Q. Have you asked University for it?

20 A. I told University to hold on to all paperwork

21 regarding this case.

22 Q. Okay. But you haven't asked them for that

23 specific letter, you personally?

24 A. I personally have not asked them for that.

25 Q. And you don't know whether your counsel has?

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1 Q. Okay. Have you ever served in the military?

2 A. No.

3 Q. Do you have any kind of criminal record at

4 all?

5 A. No.

6 Q. Kind of a general kind of practice question

7 here, how long do you intend to continue practicing

8 medicine?

9 A. Until I'm dead.

10 Q. Really?

11 A. Seriously.

12 Q. Okay.

13 A. I would go nuts.

14 Q. Well, most people don't do that. They

15 practice until they reach a certain age. Now, if you're

16 serious about that, that can be your testimony.

17 A. No, I'm serious about that. And I know a lot

18 of doctors who practice until the day they die.

19 Dr. Pryor, gosh, how old was she? She was in her 90s

20 and she just died last year and she was practicing.

21 Q. Fair enough.

22 A lot of OB/GYNs drop OB after a certain time

23 because of the hours and the hassle associated with

24 that. It's what I've been told.

25 A. Once I'm old.

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1 A. I don't know.

2 Q. Okay. And why do you think -- why do you

3 think Anderson sent a letter to University? Why do you

4 suspect that?

5 A. Because Dr. Daniels told me.

6 Q. Okay. And Dr. Daniels would know that how?

7 A. Because Dr. Daniels -- everybody talks to

8 Dr. Daniels. And Dr. Paxton was apparently along with

9 Dr. Anderson talking to Dr. Daniels about these --

10 Q. Okay.

11 A. -- these incidences.

12 Q. What did Dr. Daniels tell you what

13 Dr. Anderson's letter said?

14 A. He said that it was negative and that they

15 were very angry that I had applied to University and

16 that Dr. Paxton had been instructed to proceed to hurt

17 my career.

18 Q. Okay. All right. Other than this lawsuit,

19 are you currently a party to any other lawsuits?

20 A. Not that I know of.

21 Q. Okay. Well, that would be malpractice suits,

22 business disputes, of that nature?

23 A. (Shakes head.)

24 Q. No?

25 A. No.

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1 Q. Right.

2 A. Or --

3 Q. Did you plan to drop OB -- when did you plan

4 to drop OB?

5 A. I hadn't made any specific date.

6 Q. Sure.

7 A. When I was no longer physically capable of

8 doing it.

9 Q. Okay.

10 A. You know, when I got old and tired or I was,

11 you know, physically incapable of, you know, the lack of

12 sleep deprivation.

13 Q. All right.

14 A. Lack of sleep deprivation?

15 Q. Sleep deprivation.

16 A. You get my point.

17 Q. Right, I get it.

18 You mentioned in the hearing, and I think it

19 was the 2010 hearing, someone asked you a question

20 about, "Okay, you know, what's your plan as this thing

21 moves through?"

22 And I think you said something, but you tell

23 me if you recall this. About, "You know, if I come

24 through this hearing and I still have privileges, I

25 would like to drop OB."

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1 Do you recall anything like that?

2 A. I do recall that.

3 Q. All right.

4 A. But it was specific to that particular

5 situation.

6 Q. All right.

7 A. You know, the ...

8 Q. So was that --

9 A. The people -- I would not be able to practice

10 at ARMC in an obstetric capacity because of the pain.

11 It's sort of like being gang raped and then being forced

12 to work with the rapist. I would not be able to go back

13 onto that floor with those OBs and mentally be

14 subjecting myself to that.

15 Gynecology, you can go into an OR, you can

16 operate, you can leave. On an OB floor, you would be

17 running into those obstetricians all the time. And this

18 was -- what I attribute to, you know, basically rape.

19 Q. Okay. All right. You had your evaluation

20 from Dr. Schwartz-Watts in 2010; is that correct?

21 A. I'm not going to go with any date specific,

22 but yes.

23 Q. As a result of the first peer review action,

24 you agreed to be evaluated by a psychiatrist --

25 A. Correct.

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1 So sometimes if I can't get in to see

2 Dr. Steiner, because the man is booked out like nine

3 months, if I need a refill, I will talk to my family

4 practice doctor. But I've been on essentially the same

5 regimen for decades.

6 Q. Okay. Are you currently suffering from any

7 kind of psychiatric disorder?

8 A. Not any more than any perimenopausal woman --

9 Q. So the answer is no?

10 A. -- who is a doctor who is going through this

11 situation.

12 Q. So is the answer no?

13 A. I have been diagnosed with depression and

14 obsessive compulsive features, and I've been treated

15 throughout the course of my life for major depressive

16 disorder.

17 Q. Okay.

18 A. I have never required hospitalization. It's

19 never interfered with my ability to function in any of

20 my capacities, including dealing with radioactive

21 isotopes and psychotrauma facilities.

22 MR. DAYHUFF: Okay. I'm going to show you

23 something that we're having marked as Exhibit 2.

24 (DEFT. EXH. 2, Peer Review Notices, was

25 marked for identification.)

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1 Q. -- and were ultimately evaluated by a

2 Dr. Donna Schwartz-Watts?

3 A. Uh-huh.

4 Q. After you received that evaluation, did you

5 continue in treatment with Dr. Schwartz-Watts?

6 A. No. I didn't require treatment. According

7 to her note, I was deemed not to be a disruptive

8 physician, nor did I have any personality

9 characteristics consistent with somebody with disruptive

10 personality. And so I was essentially cleared of that.

11 Her purpose was to evaluate me specifically for

12 personality disorders and disruptive behaviors.

13 Q. Okay. Did you continue with anyone other

14 than Dr. Schwartz-Watts?

15 A. In terms of?

16 Q. Psychiatry.

17 A. I do have a psychiatrist that I see, and I

18 also have a family practice doctor that assists me.

19 Q. Who is your psychiatrist?

20 A. Dr. Steiner.

21 Q. Okay. And who is your GP?

22 A. Well, it was Dr. Angley, and then I've

23 recently switched over to Dr. Danijela Zotovich.

24 Z-o-t-o-v-i-c-h. And I've also seen Dr. Degnan in the

25 past. Lisa Degnan. D-e-g-n-a-n.

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1 BY MR. DAYHUFF:

2 Q. This is a composite exhibit of notices that I

3 believe will be familiar to you from the -- what I've

4 been calling the 2009 peer review that began in 2008.

5 Okay. I want you to take a look at that, and I'm going

6 to run through some questions.

7 You see the first document in Composite

8 Exhibit Number 2. Have you had a chance to review it?

9 It's dated October 30, 2008.

10 A. Okay. I've looked at page 1.

11 Q. Okay. Take a look at page 2, and see it's

12 from K.D. Justyn. I'm going to ask you to identify this

13 document for the record, if you can.

14 A. Okay. I read page 3. Do you have a page 2?

15 Wait. This is page 2. I don't know where page 1 -- are

16 we talking about different pages?

17 Q. You're fine. You're fine. This came off of

18 your complaint, I'll tell you that.

19 A. Okay.

20 Q. And the page 2 and page 3, because there was

21 a cover sheet to this exhibit to your complaint, that's

22 where you're getting confused, the top right page

23 numbers.

24 A. Okay.

25 Q. Okay. Now, do you recognize this as the

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1 Notice of Adverse Recommendation that you got during
 2 what we've been calling the 2009 peer review action that
 3 was sent to you by K.D. Justyn referencing the five
 4 cases that were at issue in the 2009?
 5 A. Yes.
 6 Q. You do recognize that?
 7 A. Yes.
 8 Q. Okay.
 9 A. Without verifying these five ID numbers, I'm
 10 going to say yes.
 11 Q. All right. What was your understanding of
 12 what was at issue in the 2000 -- I'm, again, calling it
 13 the 2009 peer review that began with a recommendation
 14 dated October 30, 2008. Did you understand that the
 15 five cases whose medical records are listed in paragraph
 16 1 were at issue?
 17 A. "On the basis of these reports, the committee
 18 recommended that the privileges be terminated."
 19 Q. Is that what you recall, that they were
 20 recommending that your privileges be terminated in the
 21 2010 peer review?
 22 A. Yes.
 23 Q. 2009 peer review, I'm sorry. Okay.
 24 And you did receive this letter, right?
 25 A. Yes.

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1 A. I believe that it is.
 2 Q. Okay. Did this notice provide you with the
 3 cases that were at issue in your peer review hearing
 4 that was to be forthcoming?
 5 A. Without being able to verify those numbers, I
 6 only remember five. This one has six.
 7 Q. Are you looking at the double-indented
 8 paragraph in the middle?
 9 A. Yes. On page 3 or 4, which is really page --
 10 like -- which is really page 6 of this block of paper.
 11 Q. Okay.
 12 A. Cindy Besson is expected to testify.
 13 Q. Take a look at that section. I believe that
 14 lists the cases that were at issue, and I think there
 15 were five.
 16 A. Right. There's five here --
 17 Q. Okay.
 18 A. -- but there's six over here.
 19 Q. Where is there six?
 20 A. Number 3.
 21 Q. Okay. I see that. "She's expected to review
 22 and testify to the charts." Okay.
 23 Do you recognize that list of witnesses as
 24 the witnesses that appeared at your hearing in 2009,
 25 Paxton, Robinson, Besson, DiBona and Miller?

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1 Q. And take a look at the next one, which I
 2 believe is your response to that letter. But you review
 3 it and tell me if that's the case.
 4 A. Yes. Page whatever this is.
 5 Q. The one, two -- third and fourth page of
 6 Composite Exhibit Number 2 is your letter to K.D.
 7 Justyn; is that correct?
 8 A. Yes.
 9 Q. Wherein you requested a hearing to challenge
 10 the recommendation from the October 30, 2008, letter; is
 11 that correct?
 12 A. Yes.
 13 Q. Good. Flip to the next one. I'll give you a
 14 moment to review that.
 15 A. Okay. I'm sorry, where were we again?
 16 Q. Quite all right. I want to give you some
 17 time to review it.
 18 A. Okay.
 19 Q. My question is, the third letter in our
 20 composite exhibit, do you recognize that to be the
 21 notice of hearing that you received after you requested
 22 a hearing?
 23 A. Okay.
 24 Q. You do recognize this to be the notice of
 25 hearing you received after requesting a hearing?

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1 A. That actually appeared at the actual hearing?
 2 Q. Uh-huh.
 3 A. The only people that presented at the actual
 4 hearing -- well, I can't say a hundred percent.
 5 Q. Okay.
 6 A. But I remember Paxton and I remember DiBona
 7 and I remember Barbara Miller.
 8 Q. Take a look beneath the witnesses. Does the
 9 hearing notice provide you with the members of the
 10 hearing panel? Jack Ratliff, Terry --
 11 A. It does.
 12 Q. -- DeLeon, Stahura, Haas?
 13 A. Yes.
 14 Q. Okay. If you had any objections to those
 15 members, it provides you with a means of objecting,
 16 right? The next paragraph.
 17 A. Yes.
 18 Q. Did you object to any of the panel members
 19 in -- during the 2009 peer review?
 20 A. I don't recall. I know that there was in one
 21 of these -- in one of these situations, there was -- I
 22 don't recall. In one of these situations, there was one
 23 person that we had requested to be replaced.
 24 Q. I think that was in the 2010 peer review.
 25 Somebody who participated in the care of the patient.

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1 Does that sound familiar?

2 A. Yes, that's familiar.

3 Q. Okay.

4 A. But I don't recall if we contested number 2

5 and number 3.

6 Q. Fair enough.

7 Take a look at the next document in this

8 composite set, please. I'm going to ask you, do you

9 recognize this to be the hearing -- the report of a

10 hearing panel for what I've been describing as the 2009

11 peer review, your first peer review?

12 A. You mean attending a prehearing conference?

13 Q. I'm sorry, the very next page.

14 A. One of the persons is missing.

15 Q. Okay.

16 A. Dr. Haas.

17 Q. The question is, do you recognize this to be

18 the report of the hearing panel for the 2009 peer

19 review?

20 A. I can't say that I do. I thought in my mind

21 that Dr. Haas was on here. He was at the committee. So

22 I can't say that this is accurate because I know that

23 Dr. Haas was at peer review committee, and he's not

24 listed in the top paragraph of this document that you've

25 provided to me.

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1 were -- the matters that were at issue during these

2 hearings?

3 A. When we did the 2009 hearing, we talked about

4 the cases. The only thing that was ever discussed were

5 the cases in which I was alleged to be incompetent in

6 terms of my clinical abilities. The statement of number

7 2A, "Evidence presented to the hearing panel indicates

8 that Dr. Muniz is narcissistic and lacks insight into

9 her behavior," et cetera, et cetera. That was a

10 completely new thing and was never discussed at the

11 actual hearing.

12 Q. Okay.

13 A. Nor at any time before that had I ever been

14 told that I was the subject of any investigation --

15 Q. Okay.

16 A. -- for any sort of behavioral issues.

17 Q. And I want you to focus on this question.

18 Did you -- with the assistance of counsel, did you at

19 that hearing have a right to bring witnesses you wanted

20 to testify and introduce evidence that you wanted the

21 panel to consider?

22 A. As far as we were able to, yes.

23 Q. Well, do you recall them telling you you

24 couldn't bring witnesses that you wanted to bring or

25 that you couldn't introduce evidence that you wanted to

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1 Q. Okay. Did the recommendations help you

2 recognize this as your hearing panel report? Do those

3 look familiar? 1, 2, and under 2A and 3, take a moment

4 and review those.

5 A. I remember it. I remember this second half.

6 Q. Okay. So is it fair to say that this is your

7 hearing panel report for 2009?

8 A. I think that the bottom half is.

9 Q. Okay. But you're not sure about the top

10 half?

11 A. I'm not sure.

12 Q. If this same document was attached to your

13 complaint, would that reassure you that it's the right

14 hearing panel report?

15 A. I'm going to tell you that the bottom part,

16 after the conclusion of the hearing, I remember reading

17 these whatevers.

18 Q. Okay. Were there any OB/GYNs on the panel

19 for the 2009 peer review?

20 A. No.

21 Q. During the 2009 peer review, did David Dick

22 and Biff Sowell appear with you at the hearing?

23 A. Yes.

24 Q. At that hearing, were you afforded the right

25 to present evidence on the issues in this case or that

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1 introduce?

2 MR. DICK: Object to the form.

3 THE WITNESS: I brought what I thought I

4 could, and I did the best in terms of bringing accurate

5 data.

6 BY MR. DAYHUFF:

7 Q. Did you have the right to cross-examine the

8 witnesses that were presented against you?

9 A. The witnesses that were presented against me?

10 Q. Right. The MEC put up its case first. Were

11 you allowed to question the MEC's witnesses?

12 A. Witness.

13 Q. Witness. Were you allowed to question the

14 MEC's witness?

15 A. Nobody else bothered to show up.

16 Q. Were you allowed to question that witness?

17 A. I believe that I was.

18 Q. Okay. Take a look at the next document. Did

19 you -- I'm going to ask you to identify that for the

20 record, if you can. It's dated August 21st, 2009.

21 A. I recognize it.

22 Q. What is it for the record? Can you identify

23 it?

24 A. This was Notice of Board of Governors Final

25 Decision.

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1 Q. Okay. And you received that?

2 A. Yes.

3 Q. Did you have the opportunity to present a

4 written statement to the board of governors in favor of

5 your position?

6 A. I don't recall.

7 Q. Okay. So perhaps your attorneys did and

8 perhaps they didn't submit a written statement

9 supporting your position to the board?

10 A. I know that we went to Judge Early regarding

11 the added on and previously unidentified accusation of

12 being disruptive.

13 Q. Okay.

14 A. I know that several inquiries were made

15 regarding what I was being monitored for, for a hundred

16 percent, who was doing the monitoring. And we never

17 received answers.

18 Q. Okay. The question back on the hearing panel

19 report, just back up a page or two. You mentioned their

20 findings, which I gathered you disagreed with. The

21 evidence presented indicates that you are a

22 narcissistic, lack insight into your behavior, evidence

23 indicates you may not recognize or respect the limit of

24 your clinical skills, documents in evidence indicate

25 episodes of surgeon confrontation, acts of aggression,

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1 inflammatory note entries, nursing staff. That finding,

2 that evidence that they're talking about, the documents,

3 did that --

4 A. I wasn't presented with those documents.

5 Q. What I was going to ask you was, did this

6 evidence arise from the cases under review?

7 A. No. As far as I know, no.

8 Q. Follow-up question. Did this evidence have

9 anything to do with the care you provided in the five

10 cases under review?

11 A. Did the evidence have anything to do -- are

12 you asking was I full of angst, aggression,

13 confrontation and assertion in dealing with the five

14 patients in question?

15 Q. No. I'm asking you where you think these

16 findings arose from. I know you disagree with the

17 findings, but do you agree that they -- the findings

18 arose from the panelists' consideration of your care in

19 the five cases? I know you disagree with the finding.

20 MR. DICK: Object to the form.

21 THE WITNESS: I do not -- rephrase the

22 question one more time.

23 BY MR. DAYHUFF:

24 Q. I know you disagree with the findings that I

25 just read, that you're narcissistic, that you lack

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1 insight into your behavior, that you have inflammatory

2 note entries, that you have episodes of assertion,

3 confrontation, angst and aggression. I know you

4 disagree with that. But do you agree with me that those

5 findings that they made arose from their view of the

6 care you provided in the five cases at issue?

7 MR. DICK: Object to the form.

8 THE WITNESS: I don't believe that those

9 things that they listed arose from the issue of my

10 question of clinical competence. The original complaint

11 was regarding clinical competence, and this was

12 something that they tacked on at the end. And I did not

13 nor was I ever told where that data or information came

14 from --

15 BY MR. DAYHUFF:

16 Q. Okay.

17 A. -- or where that conclusion came from.

18 You know, the accusation of having a

19 personality disorder as they are -- such as narcissism

20 can only -- in any personality disorder, can only be

21 diagnosed by a trained psychiatrist or other adept

22 practitioner who has met with the psychiatric patient

23 over a long period of time.

24 And these persons, particularly the

25 psychiatrist, Mary DeLeon, I had never met before in my

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1 entire life. And so how she -- and I'm assuming this

2 phrasing, whatever phrasing, must have come from her.

3 It's my personal opinion that this was an effort for the

4 physicians to appease Carlos Milanes and his team and

5 not wind up in the same position that I was.

6 Q. Okay.

7 A. As Dr. Ratliff put in his -- in his final

8 declaration to me at the end of the hearing, he asked me

9 specifically, "Dr. Muniz, I see a lot of smoke, but I

10 don't see the fire. How did you get yourself into this

11 position?"

12 And my response to him was, "Politics."

13 And I recall Dr. Haas being very upset and

14 angrily leaving the room. And so I would have to

15 presume that this was a way of appeasing and not getting

16 themselves in trouble for ...

17 Q. Do you recall the inflammatory note entry

18 concerning nursing staff? Did that arise from the care

19 of any of the five cases or arise from your action in

20 any of the five cases? The inflammatory note entries,

21 or what were alleged to be inflammatory note entries.

22 A. I don't recall any document that gives

23 evidence of episodes of assertion, although, I don't

24 think asserting something you believe in is necessarily

25 a bad thing. I don't recall anything in the notes, you

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1 know, that would indicate aggressive confrontation,
 2 angst.
 3 Q. Do you recall a note?
 4 A. I'm talking about notes in general.
 5 Q. I'm talking about the inflammatory note
 6 entries that they're specifying here, do you recall
 7 this?
 8 A. You're going to have to show me the
 9 inflammatory note entries, please.
 10 Q. Well, the simple question is, do you recall
 11 what those inflammatory -- what they're describing as
 12 inflammatory note entries?
 13 A. I do not recall what generated this
 14 paragraph.
 15 Q. Fair enough.
 16 Take a look at the last document in this set.
 17 It's -- no, we've already looked at that one. Let's go
 18 one more. It is dated October 20, 2009, and review it,
 19 if you would.
 20 A. Are you talking about the October 20th note,
 21 2009, from Biff?
 22 Q. Uh-huh.
 23 A. Okay. What was your question about it?
 24 Q. Take a look at what's attached to it. The
 25 Agreement to Comply with Terms. I think earlier, and

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1 A. Uh-huh.
 2 Q. All right. Now, look back to the decision of
 3 board of governors, which is the October 21, 2009,
 4 decision, and doesn't it include in number 2, as one of
 5 its terms and conditions, that you can receive one
 6 hundred percent monitoring for one year?
 7 MR. DICK: Object to the form.
 8 THE WITNESS: I repeat, at no time did we
 9 agree or intend to agree with a hundred percent
 10 monitoring, and that was -- that was questioned. And we
 11 never received a response.
 12 BY MR. DAYHUFF:
 13 Q. You would agree with me that the intention
 14 you had appears to be contrary to the document signed by
 15 you?
 16 MR. DICK: Object to the form.
 17 THE WITNESS: I believe that you can read a
 18 document, and you can make it say whatever you want in
 19 your head.
 20 BY MR. DAYHUFF:
 21 Q. Okay.
 22 A. And maybe the verbiage should have been
 23 written differently in anticipation that several months
 24 from now this particular issue would come up. And I can
 25 see where you're trying to -- I don't want to say the

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1 you must have been mistaken, you testified that you
 2 agreed to do the evaluation but didn't agree to the
 3 hundred percent case monitoring?
 4 A. Correct.
 5 Q. Upon reviewing this, isn't it pretty clear
 6 that you did agree to both the evaluation and the
 7 hundred percent case monitoring?
 8 A. I never agreed to the hundred percent case
 9 monitoring. What we were talking about with this
 10 document was agreeing to go forward with the psychiatric
 11 evaluation and, you know, the predominant point of this
 12 letter is we agree to see the psychiatrist, and we
 13 understand that we will split the cost made payable to
 14 Dr. Schwartz-Watts.
 15 I see where you're trying to tweak this and
 16 twist it into where you want it to go. But never once
 17 did we understand where the hundred percent monitoring
 18 came from, nor did we ever agree to it.
 19 Q. Okay. That's fine. Your testimony is what
 20 it is.
 21 The Agreement to Comply with Terms, which is
 22 the last page of Composite Exhibit 2, says, "You hereby
 23 agree to comply with all requirements, terms, and
 24 conditions of the decision of the board of governors."
 25 Okay. Do you see that?

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1 word twist, but where you're trying to form it into the
 2 box that you're trying to form it into. But never once
 3 did we comply -- or excuse me, did we agree to being
 4 monitored a hundred percent. Because we were never told
 5 what I was being monitored for since I had been cleared
 6 of clinical incompetence and I had been cleared of being
 7 a narcissistic and disruptive physician.
 8 We had repeatedly asked what were we being
 9 monitored for, who is doing the monitoring, and, you
 10 know, would I be even told if I had made a breach of the
 11 monitoring and would I receive any sort of remediation
 12 or chance to improve myself or correct the problem. And
 13 none of those issues have been ever addressed.
 14 Q. Okay. All right. Let's move on.
 15 Question for you. In your interrogatory
 16 responses -- well, it comes from your complaint. -- you
 17 said that ARMC withheld a favorable external peer review
 18 from you as part of the first peer review action, what
 19 I'm calling the 2009 peer review action. Do you believe
 20 that allegation to be true, that someone intentionally
 21 withheld a favorable review from you?
 22 A. Will you show me the document?
 23 Q. I'll read it to you because it's got my notes
 24 on it.
 25 "The physician reviewer is not listed on the

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1 review." This is the answer. "It appears to be a
2 review from AllMed on January 4, 2008, with the patient
3 J.D. Review is obtained from ARMC's files."

4 I had asked -- that was your response, your
5 attorney's response. I had asked to provide me
6 information about a claim you made in your complaint
7 regarding the withholding of favorable information.
8 External review information. My question is to you,
9 that's your complaint, do you believe that to be true?
10 First question.

11 A. I know that there was a peer review document
12 that was sent out the first -- in the first peer review.
13 There was a case that they had sent out for an
14 independent review, and it came back favorable. And
15 because it came back favorable, they issued another
16 request for another evaluation from a different firm.

17 The only document that I was initially
18 provided or my lawyers were provided with was the
19 negative report. I was able to acquire the first
20 report, and that came up in the peer review process and
21 Dr. DiBona. I specifically asked Ms. Miller if this was
22 reasonable and customary to send out multiple reports or
23 did they usually just send out one, and she said they
24 sent out one. And I asked her if there was any
25 instances, and this is off of my memory of the

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1 A. And I was.

2 Q. Okay.

3 A. And she was subsequently invited to retire,
4 is my understanding.

5 Q. Well, do you have any evidence?

6 A. I have no evidence. All I know is she's
7 gone.

8 Q. So you have no evidence that her providing
9 you that external review resulted in her retirement?

10 A. No. But I do remember her crying.

11 Q. Okay.

12 A. And I felt bad because it was a good woman
13 who was trying to do the right thing.

14 Q. Do you believe that the recommendation to
15 terminate your privileges in 2010 was malicious and
16 arbitrary?

17 A. Yes.

18 Q. Do you believe that the MEC at ARMC, the
19 hospital, acts at the direction of UHS?

20 A. Yes.

21 Q. Why do you believe that?

22 A. Multiple reasons. In Dr. Paxton's
23 discussions with Dr. Daniels, he had indicated that he
24 had been told to do these things. And he was under the
25 direction of K.D.

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1 transcripts, but was it reasonable and customary for ARC
2 to send out multiple requests until they finally got a
3 negative one? And she said, "No, they only send out
4 one."

5 And then I produced this document. And
6 Dr. DiBona got very upset, and he wanted it verified
7 that it was, in fact, an ARMC document. And it was
8 passed around the table, and it was verified as being an
9 ARMC document. And Dr. DiBona asked me where I got it
10 from, and I didn't want to tell him because I knew the
11 lady would lose her job. And I was impelled to give the
12 name of the person that provided me with that document.

13 Q. Well, who provided you with the document?

14 A. Barbara Miller.

15 Q. Okay. And --

16 A. She's no longer working for ARMC.

17 Q. How did you get it from her?

18 A. I went down and I was talking to her about my
19 concerns and she essentially gave it to me. She said,
20 "I don't think that this would be going against what the
21 lawyers are telling us to do for me to provide you with
22 this document." She said, "And it may help you." So
23 she gave it to me.

24 Q. Okay. And you were able to use it in your
25 hearing?

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1 As the events progressed, I know that it was
2 being -- well, I can't say I know for sure, but it had
3 been indicated to me that it was now in the hands of
4 King of Prussia, corporate.

5 I had a patient who had some sort of
6 complaint with King of Prussia and they had been up
7 there talking to them and they mentioned my name. And
8 whoever they were talking to said, "Yes, we know who
9 Dr. Muniz is."

10 Q. Okay. Let me understand that. You have
11 talked to a patient who you believe heard your name
12 mentioned in King of Prussia?

13 A. Uh-huh.

14 Q. Who is the patient?

15 A. I don't remember.

16 Q. Any other evidence --

17 A. No.

18 Q. -- that the MEC at ARMC is controlled by UHS,
19 other than what you've told me? You don't have to
20 repeat that.

21 A. I don't know if I can adequately answer your
22 question.

23 Q. Why not? It's all what you know. I mean,
24 I'm not asking you for anything other than what you
25 know.

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1 A. I know that King of Prussia was intimately
2 involved in all actions having to do with anything going
3 on at ARC in terms of the surgery center and my case.
4 And their involvement and specific exclusion of me being
5 required to sign the document was, at least as far as I
6 remember, told to me by the triad that runs the surgery
7 center, that part of that deal was the understanding
8 that King of Prussia knew that this wasn't going to stop
9 and that they were going to continue and eventually I
10 would try and defend myself. And so they knew that, you
11 know, they have --

12 And when I talked to K.D., she was always
13 talking about corporate. And in the tape that you
14 heard, she was like, "I can't do anything without
15 talking to corporate." And everything is always about
16 talking to corporate.

17 And so I know that corporate is very involved
18 in the running of ARMC, as indicated by my multiple
19 conversations with K.D. and the conversations I've had
20 with persons dealing with these issues between the
21 hospital and the surgery center. And the fact that the
22 UHC or UHS, King of Prussia entity was willing to and
23 knew who I was in terms of that whole surgery center
24 event indicates that they knew who I was.

25 Q. Okay.

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1 A. Well, that --

2 Q. As a matter of logic?

3 A. As a matter of logic and also as a matter of
4 the fact, you know, that they were instrumental in the
5 organization and the execution of this entire process.

6 Q. Okay. Anything else? Any other evidence
7 that causes you to believe that they -- the competing
8 OB/GYN group did what they did in your peer review
9 actions as a result of economic or personal
10 self-interest?

11 A. I think that they have an agenda to destroy
12 my practice and drive me out of town, yes. The mere
13 fact that they tried to block the methadone clinic from
14 being active and thereby driving out my only paying
15 renter and also by destroying my second income line is
16 another example.

17 Q. Do you have any evidence that Dr. Boehner
18 participated in the deliberations of the entire board
19 and voted on the final decision of the board of
20 governors with respect to your 2010 peer review? The
21 second one.

22 A. He's the head of the board of governors?

23 Q. Chairman of the board of governors.

24 A. And I recollect that it was a unanimous vote.

25 Q. Okay. All right. Any other evidence?

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1 A. Otherwise they would have forced me to sign
2 the document.

3 Q. We talked about the reasons why you didn't
4 sign the document, right, earlier in the deposition?

5 A. Uh-huh.

6 Q. Okay. Do you believe that folks were acting
7 out of personal, and by folks I mean DiBona, Minto, and
8 the other defendants -- were acting in their -- during
9 your peer review in their personal and economic
10 self-interest?

11 A. Yes.

12 Q. What evidence do you have of that?

13 A. I think that Dr. DiBona was malicious in the
14 fact that he was essentially doing what he was told as
15 the henchman. Oletha Minto had expressed to me on
16 numerous occasions her dislike for me after that
17 incident. She was very free in talking about it in the
18 hospital. And I'm sure it will come out in trial. And,
19 you know, what her opinion of me is.

20 I'm in direct competition with them, and it
21 would be absolutely illogical for anybody to assume that
22 the competing group, you know, wouldn't have a benefit
23 by destroying my career.

24 Q. Okay. Well, you're assuming they would,
25 right?

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1 A. No.

2 Q. Okay.

3 A. Not that I know of.

4 Q. That's all I'm asking about, what you know.

5 You mentioned this as a sham peer review.
6 What is a sham peer review?

7 A. A sham peer review is defined as a peer
8 review process that's basically instigated to or -- not
9 instigated. It's a peer review process that is
10 performed in an effort to remove a physician from a
11 hospital scenario for various reasons, usually economic.

12 Q. Okay.

13 A. Or instigated by a competing group that
14 carries power within the hospital.

15 Q. Did you develop your own definition of sham
16 peer review, or does that come from someplace?

17 A. Internet.

18 Q. Internet, okay. What site?

19 A. Type in the word "sham peer review" and see
20 what comes up.

21 Q. Do you recall which site?

22 A. I read probably about 150 different articles
23 on this.

24 Q. Wow.

25 A. So if you would like that data, I would be

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1 happy to present it to you. There was an organization
2 that is made up of physicians trying to help physicians
3 who are victims of sham peer review. And I talked to
4 one of them, and I talked to a gentleman who is
5 basically the developer of the Semmelweis organization
6 which is for victims of sham peer review.

7 Q. Okay. Who are the individuals you talked to?
8 You mentioned a physician and a developer.

9 A. The developer -- I would have to look these
10 up. I'm sorry, my memory just isn't that great.

11 One gentleman was a victim of sham peer
12 review and he was basically telling me his story and he
13 wound up not being able to get a job again and wound up
14 having to be an abortionist.

15 Q. And this was on the -- is this on the
16 Semmelweis Society page?

17 A. No. This was is different conversation.
18 It's a blog cite that Dr. Page talked to me about maybe
19 going on and finding out ways to find jobs after you've
20 been damaged. And that's where I found this gentleman's
21 story.

22 Q. It's not Verner Waite, is it? W-a-i-t-e.

23 A. I don't think so. I think I would remember a
24 name like Verner. I'll look it up.

25 Q. Dr. Moore?

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1 legitimate peer review. They're against the Healthcare
2 Quality Improvement Act.

3 A. I believe that there are genuine victims of
4 sham peer review. I think that sounds a little bit
5 extremist. I think that the peer review process works
6 well in certain institutions, and I think that other
7 institutions use it in a negative way. An example would
8 be a physician in Augusta who had some events that were
9 quite serious and was remediated. And I have a friend
10 who had an egregious complication and was remediated for
11 a year and salvaged and still works for that hospital to
12 this day.

13 And, you know, to throw away a physician's
14 career without any sort of remediation after they've
15 been working for you for ten years is sort of odd.

16 MR. SOWELL: Can we take a short break?

17 MR. DAYHUFF: Sure.

18 (A recess transpired.)

19 BY MR. DAYHUFF:

20 Q. I'm going to try to make my questions more
21 narrow. I know how you feel about these things because
22 I've read your stuff, you know, so a lot of my questions
23 are going to be focused on what evidence you have.
24 Okay. So rather than, you know, "I believe this
25 happened," which I understand you believe X, Y and Z, I

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1 A. Dr. Moore?

2 Q. Blake Moore.

3 A. Blake Moore. No, that doesn't sound
4 familiar.

5 Q. Bill Hinnant.

6 A. I really honestly don't remember this
7 gentleman's name. We had some conversations, and he
8 was -- it was very depressing to me.

9 Q. Okay.

10 A. All I could see myself was winding up as an
11 abortionist, which I would never do. So, you know, that
12 was the end of that.

13 Q. All right. Well, I started that line of
14 questioning because your definition of sham peer review
15 sounds a lot like what I've heard on the page called the
16 Semmelweis Society. Have you been on that Web page?

17 A. Yes, I've seen that Web site.

18 Q. Do you subscribe to their views with respect
19 to peer review in the United States?

20 A. I can't answer that question because I don't
21 know what their views are off the top of my head.

22 Q. I can tell you. They view peer review in the
23 United States as a process that has been entirely
24 corrupted and is illegitimate because of the role of bad
25 faith sham peer review that has taken the place of

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1 want to focus narrowly on what evidence you have and
2 then kind of bam, bam, bam, move through. Does that
3 make sense?

4 But if you feel like you need to explain, I
5 don't want to cut anything off, okay?

6 A. Uh-huh.

7 Q. Does that make sense?

8 (Off the record.)

9 BY MR. DAYHUFF:

10 Q. Do you seek any damages from the 2009 peer
11 review action, or is your damages claim limited to the
12 harm you alleged was caused to you by the 2010 peer
13 review action? That's not an evidence question, but
14 it's a specific question.

15 A. What I know is that I've been damaged
16 financially, professionally, emotionally, as have the
17 people that have been around me and associated with me,
18 my family, my practice girls, you know. The exact
19 numbers, I think that I've pretty much demonstrated, you
20 know, that I rely on people that are experts in that
21 arena because my job is to focus on medicine.

22 Q. Okay.

23 A. And that is why I hire people to do those
24 calculations.

25 Q. Okay. So is it a fair answer to say you're

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1 not sure?

2 A. I'm not sure.

3 Q. Fair enough.

4 Do you believe your hearing officer in the

5 2010 peer review was biased against you? That's Ernie

6 Nauful.

7 A. Yes, I do.

8 Q. Why? What evidence do you have of that?

9 It's one of those narrow-evidence questions.

10 A. What you consider evidence and what I

11 consider evidence and what the court would consider

12 evidence are probably different things.

13 Q. Evidence is something you observed or a

14 document you have. That's, I guess, what I would

15 consider evidence. But you tell me.

16 A. Okay. Let's go with what I observed.

17 Q. Okay.

18 A. Or -- yeah, we'll go with what I observed.

19 He was constantly talking to ARMC's attorneys -- and

20 what is the word I'm looking for? To talk secretly in a

21 corner and appear to be planning.

22 Q. Okay. That was in your presence when you

23 were in the hearing room?

24 A. Uh-huh, or like during breaks.

25 Q. Okay.

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1 he agreed that it was extensively clotted. I think that

2 that -- well, we'll go back to Trzpuc.

3 We had a discussion about it, and as I said,

4 the placenta was, you know, very abnormal and even on

5 gross inspection. So we discussed collegially and in a

6 scientific manner the findings of the placenta, which

7 were, you know, from a medical standpoint and scientific

8 standpoint quite interesting. And he basically was

9 like -- I had wanted him to do what's called a gross

10 autopsy on the -- or basically just a physical exam.

11 And it's reasonable and customary in every other

12 hospital I've ever been in when there's a fetal death,

13 that the pathologist comes up and does a physical

14 examination on the infant and documents the external

15 findings.

16 And on this infant it was not normal, and it

17 showed signs of chronic anoxia and damage. And its

18 right face -- its right face was peeling already,

19 starting to squamate. And I had told him about that.

20 And he said, in essence, you know, "Margo, this is a

21 really bad-looking placenta," and he said, "This baby

22 has been without adequate oxygen for a long time." And

23 I believe that also.

24 And we talked about -- we speculated about

25 how long the baby had probably been suffering from

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1 A. He made it very difficult for me to -- or I

2 felt that he was making it difficult for me and cutting

3 me off and trying to lead me in directions that would

4 favor ARMC. When he would query or when he would

5 discuss things with the panel or with experts, he would

6 sometimes redirect them in what I believed to be a

7 position more favorable to ARMC.

8 Q. Any other evidence?

9 A. That's what I have so far.

10 Q. Okay. I asked -- you have a claim in your

11 amended complaint that ARMC's own pathologist concluded,

12 "The fetus --" and this is the 2010 case, I guess the

13 K.C. case, right? "The fetus was brain dead upon

14 arrival to ARMC and delivery two hours prior to the

15 actual C-section, would have resulted in the same

16 outcome."

17 And I asked you what supported that claim.

18 And you said, "A report issued by Dr. Williams --" and I

19 think I've seen that. He's the pathologist, right?

20 A. Uh-huh.

21 Q. I've seen that. "And a verbal report made by

22 Dr. --" T-r-z-p-u-c?

23 A. Trzpuc. He's the other pathologist.

24 Q. Okay. Tell me about this verbal report.

25 A. Dr. Trzpuc and I discussed the placenta, and

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1 anoxia. And it was -- the statement more was like it

2 was -- and I don't mean to sound in any way cruel, but

3 that this baby would have had severe brain injury, you

4 know, brain death, you're dead, brain injury. And I

5 guess the baby did die. But if it had survived, it

6 would have had severe neurologic damage.

7 Q. So if I were to -- well, did Dr. -- is

8 Trzpuc?

9 A. Trzpuc.

10 Q. Trzpuc. Did he testify at the hearing?

11 A. No, he was absent.

12 Q. Okay. Did you want him to testify?

13 A. Yes. I wanted him to testify.

14 Q. Okay. But he would not? Or did you ask him,

15 I guess, is a better question.

16 A. I don't recall why he wasn't there.

17 Q. Do you recall asking him to testify?

18 A. I don't recall.

19 Q. Okay. If I asked him tomorrow, "Did you say

20 anything, Dr. Trzpuc, that could be construed as the

21 fetus was brain dead upon arrival to ARMC and delivered

22 two hours prior to the actual C-section, would it result

23 in the same outcome?", would he tell me, "Yeah, I

24 agree"?

25 A. It depends upon whether he would tell the

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1 truth or not.

2 Q. And you would be concerned he wouldn't?

3 A. I think a lot of people would do things if

4 they wanted to keep their job especially in hard

5 economic times. And I think there's probably a reason

6 why he wasn't there and why they had Dr. Williams come

7 instead.

8 Q. Now you're speculating about that. You don't

9 have evidence of that?

10 A. This is a speculation.

11 Q. Okay.

12 A. This is a speculation. But I have seen

13 people lie before. And you have a 50/50 shot.

14 Q. Okay. Question. We talked about ARMC

15 providing or not providing information timely to your

16 credentialing recipients. Do you believe they provided

17 false information at any time?

18 A. I'm sorry, back up.

19 Q. We're talking about you made an allegation

20 earlier that your attempts to get privileges elsewhere

21 were thwarted in part by -- in certain -- with certain

22 providers, with certain hospitals, by ARMC's failure to

23 provide stuff timely, right, or -- yeah, or failure to

24 provide something timely to the other hospital, right?

25 A. Yes.

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1 Q. That's the guy everybody talks to, Senior?

2 A. Uh-huh.

3 Q. Okay. All right. Did he say those words to

4 you, "Dr. Paxton said to me, 'Margo, he's going to run

5 you out of the hospital'?"

6 A. He said, "Margo, Dr. Paxton has been

7 instructed by K.D. to run you out of the hospital, and

8 he feels bad about it, but he's afraid he'll lose his

9 job."

10 Q. So if I were to go ask Dr. Daniels Sr. that,

11 do you think he would tell me that?

12 A. If you were an OB/GYN who had witnessed

13 another OB/GYN with a clean record be totally destroyed,

14 would you answer the question truthfully?

15 Q. So he would be afraid to tell me that?

16 A. Would you be?

17 Q. I've got to ask the questions.

18 A. I'm sorry.

19 Q. It's all right. I understand your testimony.

20 A. You know, I believe that he may or may not

21 tell the truth.

22 Q. Fair enough.

23 A. We won't know until we ask.

24 Q. Sure.

25 A. If I was him, I would be afraid. But I would

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1 Q. Okay. Little different question. Do you

2 believe they provided false information about you to

3 other entities -- they've written in "providing it too

4 slowly."

5 A. Do I believe?

6 Q. Yeah, believe. Then I'll ask you if you have

7 any evidence of that.

8 A. I believe it, but I don't know if I can prove

9 it.

10 Q. Fair enough. Let's go to this. You say --

11 well, let me ask you this. Did Dr. Paxton say anything

12 about running you out of the hospital?

13 A. To me personally?

14 Q. Do you believe -- let's start with this. Do

15 you believe he said that he wanted to run you out of the

16 hospital?

17 A. Yes, I believe that.

18 Q. Okay. And then the question, what is your

19 evidence of that belief?

20 A. I base that evidence on what Dr. Daniels told

21 me.

22 Q. Okay.

23 A. And --

24 Q. Is this the senior or the junior?

25 A. Senior.

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1 do the right thing.

2 Q. You would tell the truth?

3 A. I don't know if he would.

4 Q. Do you believe that any of the defendants

5 have made -- have diverted patients from you?

6 A. Define "diversion."

7 Q. I think it's your allegation, but let me

8 think. The allegation is that defendants interfered

9 with your patient relationships. Do you believe they

10 interfered with your patient relationships?

11 A. Yes.

12 Q. Okay. And do you believe they interfered

13 with the patient relationships by suspending you and

14 revoking your privileges, which interfered with the way

15 you would normally interact with patients? Like doing

16 work for them at the hospital, is that what we're

17 talking about or is there something more to it?

18 A. Which specific person?

19 Q. Well, I don't know. You said defendants,

20 plural.

21 A. Yes. I believe that their actions diverted

22 patients.

23 Q. Okay. And what would those -- well, the

24 diversion -- let's set that aside.

25 How did that interfere with your patient

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1 relationship? Is it anything other than suspending and
2 revoking your privileges? Is there more to it than
3 that?

4 A. You know, I can give you an example of Cindy
5 Besson saying unsolicited negative things about me even
6 prior to all of this, which would indicate a chronic
7 need to retaliate for Judith and I leaving. Her actions
8 in terms of not practicing obstetrics for five years and
9 yet signing off on the documentation to immediately
10 terminate me without any sort of remediation and without
11 knowing what even the current criteria for reading them
12 or for reading fetal heart strip, I think is indicative
13 of revenge.

14 I think a reputable physician or a physician
15 who wasn't motivated by anger would have recused herself
16 and said "I'm not up to date on obstetrics, and you need
17 to get somebody who is." I think that --

18 Q. I guess I'm thinking -- and I understand your
19 testimony about the stuff within the peer review. My
20 question is a little more specific, which is -- and I
21 understand how you would believe that the peer review
22 action suspension, the revocation has interfered with
23 your ability to practice in the way you want to.

24 A. Yes.

25 Q. I get that. Have defendants interfered with

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1 A. No. It's everybody else coming into my
2 office saying, "I heard from" that kind of thing.

3 Q. Gotcha.

4 A. So we'll just have to end it there.

5 Q. Okay. With respect to this claim you have
6 that you have not been paid for treating -- for your
7 work, taking call where you have a patient who comes in
8 who is, I guess, either Medicaid or maybe even self-pay,
9 you have a claim that you haven't been paid for that
10 work, right?

11 A. These are patients that have no funding, and
12 the hospital is paid to take care of those patients.
13 That they receive grant money for underserved areas.
14 And the physicians are, as part of the contract,
15 required to see those patients and are subsequently
16 reimbursed for seeing those patients. And I have not
17 received what is due to me.

18 Q. Have you provided all the information that
19 the hospital has sought?

20 A. Yes, we have.

21 Q. You have?

22 A. Yes, we have.

23 Q. And how do you know that? Have you looked at
24 it?

25 A. My office manager and my biller have shown it

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1 your ability to -- interfered with your patient
2 relationships in any way other than the suspension and
3 revocation that I need to understand? Well, forget the
4 last part. In any other way.

5 A. The treatment of any patients in the
6 hospital.

7 Q. Okay.

8 A. The treatment of my staff in making it --
9 giving us such a difficult time in obtaining data in
10 order to maintain our patient's health. For example,
11 not giving us our mammogram reports.

12 Q. I think I saw a statement that you submitted
13 from somebody about that, right?

14 A. Uh-huh. And so, yes, in essence I think
15 there's other instances.

16 Q. Okay. And I've seen the statements that
17 David has provided to me from those folks. Anything
18 outside of those statements that you think is evidence
19 of interfering with your patient relationships and, of
20 course, excluding what we've already talked about with
21 the peer review action?

22 A. I think the way they talk about me in the
23 community has had a big effect. Of course, that's a
24 difficult thing to prove.

25 Q. Yeah. They're not talking to you, are they?

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1 to me, and we've faxed it over to our attorneys.

2 Q. And what -- I'm sorry, go ahead. And you
3 faxed it to your attorneys?

4 A. So you should have copies of that data.

5 Q. Is that something that's recent that I
6 haven't seen? Okay. I haven't seen that.

7 What do you understand to be the information
8 that was faxed over?

9 A. The different responses that I believe his
10 name is Mike Tierny. The conflicting statements that he
11 was giving to my biller and my office manager in his
12 refusal to turn over those monies.

13 And it's my understanding -- it's my
14 understanding, I'm putting that as a qualifier, that,
15 you know, these were bills that occurred even before all
16 of this went south.

17 Q. Okay.

18 A. So, I mean, these were monies long owed to me
19 and then just were never given to me for this reason or
20 that reason, et cetera, et cetera, et cetera.

21 Q. Do you believe that your ownership interest
22 in the Aiken Surgery Center resulted in or has a causal
23 relationship with the peer review actions of 2009 or
24 2010?

25 A. Yes.

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1 Q. What evidence do you have other than your
2 feeling?

3 A. It was conversations I had with K.D.

4 Q. She said, "We're going to get you a peer
5 review because you own an interest in the Aiken Surgery
6 Center"?

7 A. She told me that she wouldn't -- that unless
8 I gave her back my pap smears, which the doctors had
9 pulled universally from the hospital, and unless I
10 dropped my membership from the surgery center, and, you
11 know, yadda, yadda, that basically she was not going to
12 assist me in finding a partner and she was going to make
13 it very difficult for me, is the word she used.

14 Q. Okay. That's a pretty serious allegation.
15 Were there any other witnesses that heard
16 that conversation between you and K.D.?

17 A. K.D. has an I.Q. of probably 140. No, this
18 occurred in her office.

19 Q. Okay. And when did it occur?

20 A. It occurred a couple of months before I got
21 tapped.

22 Q. For the first peer review?

23 A. For the first peer review.

24 Q. All right. And by your own testimony, even
25 if what you've just told me happened, she didn't mention

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1 interest in the surgery center and utilize the
2 pathologists outside the hospital, how do you explain
3 that those folks have not been subjected to peer review,
4 what you would view as sham peer review? I guess why
5 you?

6 A. None of them applied to University.

7 Q. Okay. Do you believe that there are no other
8 medical staff members that have privileges at both Aiken
9 and University?

10 A. There are, but they had University privileges
11 first.

12 Q. Okay. All right.

13 A. So once you've got the privileges over there,
14 what are they going to do to you? But when you try and
15 go across the river ...

16 Q. Okay. The patient, I believe you testified
17 at your hearing, and you may have produced documents on
18 this, I don't know, because I don't have a pleading
19 telling me what actually lines up with what. I believe
20 you testified at your 2010 hearing that you left to go
21 back to your office during the care of K.C., right, to
22 see a patient at your office?

23 A. Uh-huh.

24 Q. Do you know whether you produced to me
25 documents regarding the medical record regarding that

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1 peer review, did she? She said she wouldn't assist you,
2 isn't that what she said?

3 A. She said she wouldn't assist me, and she said
4 she was going to make things very difficult for me.

5 Q. And you assume --

6 A. I knew I was being threatened. I didn't
7 understand what she meant. If I had known what she
8 meant, I would have run.

9 Q. Okay. So you assumed --

10 A. Like hell.

11 Q. You assume now that that meant peer review?

12 A. Yes. I assume now that meant peer review.

13 Q. All right. All right. And this wasn't the
14 conversation that I listened to that you taped, right?

15 A. No. But it sure would have been nice, huh.
16 No.

17 Q. Okay. You mentioned the pathologist, so then
18 I would suppose that you believe that your utilization
19 of pathologists outside of the hospitals, contracted
20 pathologists, has a causal relationship to what happened
21 to you at peer review?

22 A. Yes.

23 Q. Right? Okay.
24 How do you explain the fact that there are
25 other physicians in the medical staff who both have an

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1 patient?

2 A. Yes.

3 Q. What was that patient's condition that you
4 went to see at your office?

5 A. This patient had come in and she was almost
6 term and she was having basically dark brown blood
7 discharge and she was having some pain and she had
8 reported no fetal movement. I was having difficulty
9 getting a Doppler on her. And she was complaining of
10 leaking fluids. So I wasn't sure if she was having
11 partial abruption, if she was ruptured. And we were in
12 the process of looking at her, you know, when this
13 episode came about. When they were doing the
14 ultrasound, I went over to check on her to see if she
15 needed to be transferred.

16 And that was a main point in their argument.
17 But the facility 410 is on campus. It is three minutes
18 away.

19 Q. What was the ultimate outcome of that
20 patient?

21 MR. SOWELL: Wait.

22 MR. DAYHUFF: Go ahead.

23 MR. SOWELL: She needs to be allowed to
24 finish if she's got --

25 MR. DAYHUFF: You're right. I'm getting

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1 tired. Go ahead. I'm sorry.

2 THE WITNESS: That 410 building is considered

3 on compass, and it is not unreasonable and certainly

4 within the standard and scope of practice as documented

5 by some of the testimony of the maternal fetal medicine

6 people to go check on other patients, you know, while,

7 you know, you've got two high-risk situations, you're

8 trying to handle both.

9 410 is on medical campus, and it has direct

10 extensions into 410. For example, AI, Dr. Boehner Boone

11 and Mintos, have a direct hospital line. They're a

12 simple extension. We asked for one, we were never given

13 one, which is also a show of favoritism. But I

14 digress.

15 It takes me three minutes to walk from the

16 hospital to my office and three minutes to walk back.

17 And I've timed that a hundred thousand times. I'm being

18 metaphysical. But many, many times. I know exactly how

19 long it takes me. And this patient was getting an

20 ultrasound. I had my pager and my phone on. Could have

21 turned around at any second. The OR was already open,

22 and this patient needed to be checked on.

23 And so I did not delay care of that patient

24 in any way by going and checking on my other patient,

25 who was also at risk for abructing. And the only delay

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1 of it and the blood vessels run through the membranes.

2 And so that's a very high-risk situation because if the

3 lady goes into labor and one of those blood vessels rips

4 in the membranes and they're not attached directly to

5 the placenta, it's fetal death.

6 Q. Okay.

7 A. And so that's how she wound up. The baby

8 came out okay.

9 Q. Okay. Good. Thinking about the care of

10 K.C., that's the subject of the 2010 peer review,

11 looking back on that as an OB/GYN, a board certified

12 OB/GYN, would you have -- you know, looking back with

13 hindsight, would you have done anything differently in

14 the care of that patient?

15 MR. DICK: Object to the form.

16 THE WITNESS: I wouldn't have done anything

17 differently as an OB/GYN.

18 BY MR. DAYHUFF:

19 Q. Another way to say that question is, do you

20 feel like you made any mistakes looking back at that

21 case now?

22 A. I think that I should have ---

23 MR. SOWELL: Wait, wait. Let's stop for a

24 minute. Can you rephrase that question?

25 MR. DAYHUFF: Sure.

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1 that occurred was that 12-minute delay while they tried

2 to get the patient back into the C-section room and get

3 her spinal in place for us to do the C-section.

4 So me walking three minutes has got

5 absolutely nothing to do with how the outcome of this

6 baby turned out.

7 BY MR. DAYHUFF:

8 Q. Okay. The ultimate outcome of the other

9 patient in your office that you went to go check on, how

10 did that resolve? Did this patient abrupt? Was it --

11 how did that resolve?

12 A. She had -- if I remember correctly, and I

13 would have to go back and look at the chart, she had a

14 non-reassuring tracing in the beginning. And we left

15 her on the monitors. And the nurse was left behind to

16 watch her.

17 And I came back and I did the nitrazine test,

18 and it came back equivocal, essentially staining

19 positive for rupture of membranes. And I did see some

20 blood in the vault. And she was somewhat tender.

21 So if I recollect, we did send her and she

22 subsequently got delivered the next day. And she did

23 not have an abruption, but what she did have was what's

24 called a marginal placenta where the placenta is over

25 here and then there's filming membranes stretching off

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1 BY MR. DAYHUFF:

2 Q. Looking back on the 2010 K.C. case, the K.C.

3 case that was the subject of the 2010 peer review

4 action, looking back on it now, do you feel like you

5 made any mistakes with respect to the care of that

6 patient that day?

7 A. No, not at all.

8 Q. Okay.

9 A. I think I did a fabulous job. And I think

10 I'm one of the few physicians that would have actually

11 worked her up for thrombophilias and actually caught it.

12 And I think because of that finding, she was able to

13 subsequently go through IVF without dying and become

14 pregnant again without dying. Because now they know how

15 to treat her.

16 And that patient stayed in town. She did not

17 go back to Spartanburg. They were happy with my care.

18 She stayed with her mother for -- and I don't know, I'd

19 have to look back at the chart, for several weeks

20 afterwards because she needed to be on Lovenox and she

21 was afraid to go home. And we treated her appropriately

22 for her thrombophilias. We got her a consultation with

23 a hematologist. We got her a consultation with high-

24 risk maternal fetal medicine, for genetic counseling.

25 She, during that period of time, presented to

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1 me quite ill with abdominal pain. And I immediately
2 recognized that she had acute cholecystitis and sent her
3 for an operation.

4 The surgeon was unfamiliar with
5 thrombophilias and called me and asked me how to manage
6 this patient intraoperatively and postoperatively, and I
7 told him how to do so. And therefore she did not die
8 during surgery, and she did not have a DVT after the
9 surgery. And I believe that I saved her life twice.

10 Q. So suffice it to say, I asked you the
11 question about did you make any mistakes in the care of
12 patient. If you had it to do all over again, you would
13 do the same thing again?

14 A. Yes, I would.

15 MR. DAYHUFF: Fair enough.

16 MR. SOWELL: Now, for the reporter's benefit,
17 this question and answer about mistakes is deemed
18 confidential.

19 MR. DAYHUFF: We'll probably make the whole
20 deposition confidential. There's been enough stuff, I
21 think, in here, and we'll probably have confidential on
22 the exterior of that. "This deposition contains
23 confidential information." That way no one can just
24 file it or something.

25 And I need to give you a copy of the

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1 Center --

2 A. Yes.

3 Q. -- to do his hearing officer duties?

4 A. Yes.

5 Q. Do you have any objection to that?

6 A. Yes.

7 Q. Okay. Did you offer to split the cost of the
8 hearing officer with Aiken Regional Medical Center?

9 A. I did not know that, A, I had a choice; and
10 B, I wasn't allowed to pick the hearing officer. And
11 that's not something that was ever offered to me.

12 Q. Okay. But suffice it to say, then, you did
13 not offer to ARMC, "Hey, I want to pay for half of the
14 hearing officer"?

15 A. That would be illogical.

16 Q. Why is that?

17 A. That's not protocol.

18 Q. Okay. So it didn't happen, right?

19 A. It didn't happen because it's not protocol.

20 Q. Okay.

21 A. The hearing officer is picked by the hospital
22 and usually it's somebody from the hospital. It's
23 usually, at least from every other physician I've ever
24 talked to, a member of the staff, not a lawyer.

25 Q. Okay. Do you have any proof that ARMC is

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1 confidentiality order that I have with me before I
2 leave.

3 BY MR. DAYHUFF:

4 Q. All right. What's the name of the patient
5 that you were seeing at your office while this was
6 going, do you recall?

7 A. I don't recall off the top of my head.

8 Q. Okay. Did you talk to the patient K.C. or
9 her mother about your suspension or revocation on her
10 subsequent visits with you?

11 A. No. Because after that, after the
12 cholecystectomy, I want to say that she saw me once
13 afterwards and then she was supposed to go back to
14 Spartanburg and they were planning on moving back to
15 Aiken. And that's all I know. I didn't see her after
16 that.

17 Q. Okay. Did you make any statements to the
18 mother of the patient about the care that she received
19 from her Spartanburg physicians?

20 A. No, sir.

21 Q. Okay.

22 A. I hadn't even gotten the prenatal record when
23 I was treating her.

24 Q. Fair enough. Is it your understanding that
25 Ernie Nauful was paid by Aiken Regional Medical

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1 subsidized by Aiken County? Evidence?

2 A. Other than the fact that we get checks, no.

3 Q. We get checks?

4 A. We had been getting checks.

5 Q. What checks?

6 A. Are you talking about the underserved
7 patients?

8 Q. I'm talking about Aiken County, whether or
9 not -- do you have any proof that Aiken County, the
10 County of Aiken is subsidizing ARMC?

11 A. I can't answer that question. I don't know.

12 Q. You don't know if you have any proof or have
13 any evidence? You know what you have.

14 A. I don't -- I'm having a tough time with the
15 question.

16 Q. Okay. Aiken County is a political
17 subdivision, right? It's a county. Do you have any
18 evidence that Aiken County pays Aiken Regional Medical
19 Center anything or subsidizes them in any way? Have you
20 seen documents to that effect? Have you talked to
21 somebody, the county commissioner that says, "You know
22 what, we pay Aiken Regional Medical Center"?

23 A. I know that the town and the hospital are
24 extremely closely knit as evidenced by the gargantuan
25 Alltel or is it SunCom, whatever, tower on top of their

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1 hospital. You know, so they receive subsidies and
 2 payments from people in town or businesses in town by
 3 allowing the tower to be on top of their building.
 4 Q. Okay. Anything else on that issue?
 5 A. You know, but in terms of do they receive
 6 county monies to run their operation, I have no idea.
 7 Q. Do you consider yourself to have contracts
 8 with your patients?
 9 A. I consider myself to have a relationship with
 10 my patients.
 11 Q. Yeah. But do you consider yourself to have a
 12 contract with them?
 13 MR. DICK: Object to the form.
 14 THE WITNESS: I don't understand the
 15 question.
 16 BY MR. DAYHUFF:
 17 Q. You know what a contract is, an agreement
 18 between two parties, right?
 19 A. We don't write out handwritten agreements, if
 20 that's what you're saying.
 21 Q. So you don't have a written agreement with
 22 your patients, right, a written contract?
 23 MR. DICK: Object to the form.
 24 THE WITNESS: We have paperwork that, you
 25 know, says if you don't -- if your insurance company

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1 Regional, as far as I know, there's only been maybe two
 2 operations for malignancy performed by another
 3 physician.
 4 Q. Even though you haven't had your privileges,
 5 isn't it true that you have been able to provide care,
 6 good care to your patients?
 7 MR. DICK: Object to the form.
 8 THE WITNESS: I do the best with what I have,
 9 but I've been crippled. And patients who could come to
 10 me with significant problems and the charity cancer
 11 patients I used to treat no longer get treatment because
 12 I can't operate and so they die. Because a lot of
 13 doctors won't operate on cancer patients when they don't
 14 have any money.
 15 BY MR. DAYHUFF:
 16 Q. You can't get any assistance from Dr. Bryan
 17 or any of the other folks?
 18 A. They don't feel comfortable doing those types
 19 of operations. I do those operations with people like
 20 Dr. Frei, a general surgeon, a urologist. And once you
 21 get the tissue and you prove it's cancer, then you can
 22 get the patient funding.
 23 Q. Gotcha. Have you asked anybody to take on
 24 those cases that you used to take on?
 25 A. Yes.

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1 doesn't cover this bill, you'll be responsible. You
 2 know that sort of stuff, this is what HIPAA means, stuff
 3 like that.
 4 BY MR. DAYHUFF:
 5 Q. Right. That they need to pay you, and that
 6 there are certain privacy things going on. Okay.
 7 Anything other than that that you would describe as a
 8 contractual relationship that you have with a patient?
 9 MR. DICK: Object to the form.
 10 BY MR. DAYHUFF:
 11 Q. If you are describing that as a contractual
 12 relationship.
 13 A. I think I have a normal physician
 14 relationship with my patients like any other doctor.
 15 Q. Fair enough. I believe you alleged that
 16 you're the only gynecologist who performs gynecological
 17 malignancy surgeries and female incontinent surgeries in
 18 the area; is that true?
 19 A. I'm the one that does a large portion of
 20 them.
 21 Q. Okay. So it's not true that you're the only
 22 one, right?
 23 A. No.
 24 Q. Okay.
 25 A. I do the majority of them. At Aiken

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1 Q. Who?
 2 A. I send them up to Palmetto Richland and see
 3 if they can do something for them.
 4 Q. Okay. So you send them to different -- so
 5 have you asked any doctor, "Hey, I had this clientele
 6 that I used to serve, I would like you to be the one to
 7 step up and take this on"?
 8 A. I've talked to Dr. Smith, and I've sent him
 9 charity patients. Whether or not he's been able to take
 10 care of them, I don't know.
 11 Q. Okay.
 12 A. Because, you know, he's a fabulous doctor,
 13 but he's tremendously busy and he never ever writes
 14 follow-up notes. So a lot of times they get stuck in
 15 the cancer world, and you never find out what happened
 16 to them.
 17 Q. Who is Hilda Hanks? Did we talk about her?
 18 A. Hilda is a lady that used to work in medical
 19 records.
 20 Q. Does she work for you now?
 21 A. She worked for me briefly.
 22 Q. Okay.
 23 A. Now I believe she works for another
 24 physician. But she worked for years and years in
 25 medical records.

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1 Q. What information would she have, if any,
2 about this case?

3 A. She wouldn't have any information about this
4 particular case, but she would be able to give
5 information regarding the general practices of ARMC and
6 the way they deal with certain issues.

7 Q. Okay. Which issues, how they provide medical
8 records to people or what?

9 A. Adulteration of medical records.

10 Q. Okay. You believe she has evidence that ARMC
11 is engaged in the adulteration of medical records?
12 She's on your witness list, so it must be the reason.

13 A. Uh-huh.

14 Q. Okay. And has she told you she's observed
15 this?

16 A. Yes.

17 Q. Okay. And she's prepared to testify?

18 A. We'll find out, won't we?

19 Q. I guess so. Okay.
20 Denise Parnell, have we talked about Denise?

21 A. I don't believe so.

22 Q. Okay. Who is Denise Parnell, M.D.?

23 A. Denise Parnell is a pathologist.

24 Q. We have just briefly.

25 A. Yeah, we have just for a minute.

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1 Q. Mary M. Lynes. L-y-n-e-s.

2 A. That name is familiar, but I can't think of
3 why.

4 Q. Deidra Dortch.

5 A. I want to say she's a patient.

6 Q. And do you have any idea what she would
7 testify about?

8 A. I don't remember.

9 Q. Natasha Rudolph?

10 A. Patient.

11 Q. Any idea what she would testify about?

12 A. I don't remember.

13 Q. Candace Fields?

14 A. Don't remember.

15 Q. Teara Burgess?

16 A. Patient. Don't remember.

17 Q. T-e-a-r-a. Patient, don't remember what she
18 would testify about?

19 A. Huh-uh.

20 Q. Amber M. Hall?

21 A. Don't remember.

22 Q. Okay. Patient or don't know?

23 A. Don't know.

24 Q. Shirley Anderson?

25 A. Don't know.

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1 Denise Parnell is one of the pathologists
2 that was fired by ARMC.

3 Q. I recall. I've seen the documents from
4 Mr. Sowell.

5 Levosia Ramsey, R-a-m-s-e-y, Levosia,
6 L-e-v-o-s-i-a. Do you know who she is?

7 A. I want to say that she's one of the other
8 medical record ladies.

9 Q. Okay. 63 Dryback Road, Aiken.

10 A. I'd have to look at the files.

11 Q. Tanya Cordell?

12 A. (Shakes head.)

13 Q. No idea?

14 Maranda M. Clark? Maranda, M-a-r-a-n-d-a.

15 A. A lot of these people that we've collected
16 are patients or people that, you know, in some way may
17 or may not be able to help us with the case. And so I
18 can't answer those questions on people that I
19 peripherally know.

20 Q. If you're not sure, that's fine. Whatever
21 you know, I would like to know. But if you don't know,
22 we'll just move on.

23 A. Okay.

24 Q. Don't know?

25 A. Don't know.

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1 Q. Shiree, S-h-i-r-e-e, Huntington?

2 A. Patient.

3 Q. Do you know what she will testify about?

4 A. Huh-uh.

5 Q. This adulteration of medical records issue, I
6 mean, tell me more about that. Why would that happen?
7 What is Hilda going to say?

8 A. I have no idea what Hilda is going to say.

9 Q. How did you come to name her?

10 A. Hilda had told me that she routinely saw the
11 adulteration of medical records during her tenure at
12 ARMC, and we were able to get another lady who basically
13 said she saw the same thing. And this goes along with
14 the fact that some of my documents were missing pages
15 and my hearings, and the fact that the good review was
16 not given to us initially, and I had to acquire it. It
17 just kind of goes to the general tendency of ARMC to
18 move data in a way that benefits them.

19 Q. Okay. And the people doing the adulteration
20 of the medical records, is that doctors or staff or who
21 is that or all of the above?

22 A. Both.

23 Q. Both. Okay.
24 Did you receive at any time any instruction
25 to preserve all documents related to this case in

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1 written form?

2 A. From whom?

3 Q. From anybody.

4 A. Not that I recall.

5 Q. Okay. Did you receive that orally from

6 anybody?

7 A. Not that I recall.

8 Q. Fair enough.

9 I heard you won the lottery recently. Is

10 that true?

11 A. I did not win the lottery. It would be nice.

12 Q. No, I really heard you won the lottery. Did

13 you not win the lottery?

14 A. No, I don't play. I don't gamble.

15 Q. Did your husband win the lottery?

16 A. My husband won the lottery several years ago.

17 Q. Okay.

18 A. It was a couple like three, four years ago.

19 Q. Wow. How much did he win?

20 A. He won \$250,000 of which the government took

21 their --

22 Q. Half?

23 A. -- 50 percent. And then we were taxed on it

24 again at the end of the year, double taxation, illegal,

25 constitutional breach.

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1 hospitals there wouldn't even look at me. So this is

2 the only practice I have, and the only venue that I will

3 ever practice medicine in again.

4 Q. Have you considered hiring or contracting

5 with an OB/GYN, bringing them into Magnolia Medical,

6 LLC, on the Parkside, LLC, to take -- to work with you

7 and then be able to do your OB -- the OB part that you

8 can't do anymore?

9 A. To --

10 Q. Have you considered that?

11 A. To bring in a physician as a partner or as an

12 employee would have the same devastating financial

13 outcome that Dr. Irwin resulted in because we would not

14 be receiving any subsidies and support by the hospital.

15 Most physicians get subsidies from the hospital in order

16 to bring in patients, as evidenced by AI's recent

17 acquisition of a new partner. That's the way they

18 afford it.

19 Q. Okay. Did Irwin -- is that her name or his

20 name?

21 A. Her.

22 Q. Her. Did she actually come on board with you

23 for a time?

24 A. She was an employee.

25 Q. Okay.

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1 Q. David's next case.

2 Okay. None of that would be reflected in any

3 the financials, right? None of that would have been run

4 through the practice, that's the reason I asked about

5 it.

6 A. It has absolutely nothing to do with that.

7 Q. Okay. I just wanted to make sure it wasn't

8 somehow in that mix.

9 A. No.

10 MR. DICK: I think that may be reflected on

11 the personal, actually.

12 MR. DAYHUFF: On the tax returns?

13 THE WITNESS: Yeah. It's on the tax returns,

14 I promise you.

15 BY MR. DAYHUFF:

16 Q. Have you looked into moving elsewhere to do

17 your office space GYN practice?

18 A. No.

19 Q. Why not?

20 A. Because my patients are here, and they're

21 loyal to me. If I was offered -- or it was discussed, I

22 should say, with the physician down in Savannah whether

23 or not that would be feasible, and it wouldn't be

24 because I wouldn't even be able to get surgery center

25 privileges and I would be useless. And both of the

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1 A. And we wound up having to pay for everything

2 because K.D. reneged on the oral contract.

3 Q. Okay. How long was she with you, for how

4 long?

5 A. A year and a half.

6 Q. Why did she leave?

7 A. Multiple reasons. Number one, she got breast

8 cancer.

9 Q. Okay.

10 A. Number two, she had already been talked to by

11 Dr. DiBona twice. She was the -- a very well-published

12 author. She came from MCG. She was the director for

13 the residency program. She sits on the ABOG, American

14 Board of OB/GYN, committee and designs the questions.

15 She is a lady who has designed and implemented many of

16 the ACOG protocols that are standard of care across

17 America.

18 And the practices that were currently at

19 Aiken were very troubling to her. And when she would

20 voice her concerns about it, it was not received well.

21 And she was very unhappy in the hospital, and she was

22 afraid that they were going to do to her what they did

23 to me. And she had told me she couldn't afford to have

24 her record ruined like that, but she would -- you know,

25 essentially she would be planning to leave.

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1 And then when she got her cancer diagnosis,
 2 you know, essentially she said to me, you know, "There's
 3 nothing in God's green earth that's going to make it
 4 worth it after that." And she wound up covering call
 5 for me for a long period while, you know, this first
 6 pulling of privileges happened. And she was having some
 7 productivity issues, and the stress on her was
 8 astronomical. And I offered her to go as a 1099
 9 employee and a fight ensued and she was angry at being
 10 dropped down to a 1099 employee and she wasn't
 11 interested in being at ARMC and she subsequently left.

12 Q. So those are the factors.

13 Where is she now?

14 A. I don't know.

15 Q. Okay.

16 A. Last I heard she wasn't practicing.

17 Q. I got something to show you.

18 A. Okay.

19 (DEFT. EXH. 3, Memo to the Record Dated
 20 3-6-2007, ARMC001950, was marked for identification.)

21 MR. DICK: Can you give us just a minute to
 22 go talk about this?

23 MR. DAYHUFF: Sure.

24 (A recess transpired.)

25 BY MR. DAYHUFF:

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1 the end. And that's why when you put a sponge or you
 2 give a sponge to the surgeon, you say sponge in the
 3 abdomen. Lap in the abdomen, two laps in the abdomen,
 4 three laps in the abdomen. And the circulator is
 5 writing it down. And the fact that they lost this
 6 sponge was frustrating to me.

7 And that's why I told the nurse that I was
 8 unhappy with her performance and that I was going to be
 9 filing a formal complaint and she did not like that.
 10 She said that I left the sponge on the patient on
 11 purpose, which, obviously, why would I do that because
 12 it would get me sued? And, plus, it's just bad
 13 medicine. But I did stand there and I made her find the
 14 sponge. And I don't think that she took kindly to the
 15 correction.

16 And so I met with the head of the OR and had
 17 a discussion with her about it and asked her to file an
 18 incident report. Unfortunately and retrospectively, I
 19 probably should have gotten a copy of that. The nurse
 20 also filed a complaint anticipating my complaint, and I
 21 was asked to meet with K.D. and Jonathan Anderson
 22 regarding the incident.

23 Q. Okay. So do you feel like your behavior in
 24 the incident that's reflected here on this exhibit was
 25 appropriate?

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1 Q. Doctor, have you had a chance to review
 2 what's been marked as Exhibit, what, 3 or 4?

3 A. Yes.

4 Q. Do you recall what this was all about?

5 A. Yes.

6 Q. Talk to me about it. What was this all
 7 about?

8 A. Joanne and I were in the OR doing a vaginal
 9 case. I don't remember what the case was, but I know
 10 that it required my surgical nurse and a scrub, so I had
 11 an assistant each side along with the circulator nurse.
 12 And they were very careless about the way they were
 13 dealing with the needles and sponges and that had
 14 happened other times in the OR, particularly with this
 15 one specific circulator. And by that I mean nurse.

16 And when we completed the procedure, they
 17 told me they couldn't find a sponge. And I told them
 18 that they needed to find the sponge. And that it was --
 19 this was becoming a problem, and that I was going to
 20 file a formal complaint.

21 And eventually they found the sponge in the
 22 vagina, which is the job of the circulator and the scrub
 23 who is standing there the entire time you're operating.
 24 They should be watching where the sponges are going at
 25 all times. And that's why you have a double count at

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1 A. I don't think that I was inappropriate at
 2 all. The nurse was very angry and why they took her
 3 position over my position, I don't know.

4 Q. Okay.

5 A. But, you know, their opinion was that I
 6 should have just, you know, gone and looked for the
 7 sponge myself. My opinion was that in order to learn,
 8 you need to fix your own mistake. They basically said
 9 that was -- you know, if I had helped, it would have cut
 10 down the OR time and cost to the hospital, and, you
 11 know, I shouldn't have chastised her, reprimanded the
 12 nurse.

13 Q. Did you or did you not leave the nurses in
 14 the room with the patient, walk out of the room and say,
 15 "You find the sponge"?

16 A. I don't recall doing that. I don't recall
 17 doing that.

18 Q. Okay. Could you have done it, you just don't
 19 recall?

20 A. If I did do it, I would have done it -- I
 21 know that I would have left Joanne behind to make sure
 22 that everything -- and I would have come back. If I
 23 left, it would have been because I have certain medical
 24 issues that sometimes I need to go take care of.

25 Q. Okay. With other patients, you mean?

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1 A. No. I mean with my personal body functions.
 2 Q. Do you recall whether that occurred in this
 3 case?
 4 A. I don't remember. It happens.
 5 Q. All right. Did you use any foul language
 6 with respect to this incident?
 7 A. No.
 8 Q. Okay. No cursing?
 9 A. No.
 10 Q. Any yelling?
 11 A. I don't yell.
 12 Q. Good. This document, does this reflect a
 13 counseling of you under the disruptive physician policy,
 14 in your opinion?
 15 A. No. I think they were just bringing it to my
 16 attention. And, you know, I told them my side of the
 17 story and they told me her side of the story and that
 18 was basically the end of that. And at least I thought
 19 the conversation between the three of us ended
 20 collegially.
 21 You know, this was not a disruptive hit. You
 22 know, as evidenced right here on the bottom it says,
 23 "Dr. Muniz expressed understanding," blah, blah, "and
 24 that any future behavior of this type will be dealt with
 25 according to the medical staff code of conduct policy."

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1 Q. That sounded like you're directing it to
 2 yourself, you're hurting yourself, you're having
 3 difficulty with something you're working on.
 4 A. And you get frustrated and say --
 5 Q. You don't cuss and direct it at others,
 6 right, foul language at others?
 7 A. No.
 8 Q. Good. This is a document you produced to me.
 9 I'm not going to make it an exhibit. Do you know what
 10 SX means on the left side?
 11 A. Symptoms?
 12 Q. I don't know.
 13 A. I have no idea.
 14 Q. Okay. Thanks.
 15 All right. When you treat folks who have
 16 insurance at your practice, is that primarily Blue Cross
 17 Blue Shield?
 18 A. Our major private people would be Blue Cross
 19 and Aetna and UHC and this other one that I don't even
 20 know what it stands for, which is UHC.
 21 Q. That's the one you said, right. All right.
 22 I wanted to get some sense of the major
 23 insurance companies. I mean, is Blue Cross Blue Shield
 24 out of your insurance folks 80 percent of it,
 25 50 percent? You have no idea?

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1 So what they're saying is if I continued to
 2 do that type of behavior, they would initiate the code
 3 of conduct policy. This was several years ago. This is
 4 2011. This was 2007.
 5 Q. Absolutely.
 6 Have you ever used colorful language with
 7 ARMC staff in the OR or elsewhere, cursing?
 8 A. I think that everybody curses at least once
 9 or twice in their life.
 10 Q. Okay. So you have used foul language with
 11 ARMC staff?
 12 A. I haven't screamed at the staff and cussed at
 13 them, if that's what you're asking.
 14 Q. Yes.
 15 A. Do I cuss if I stab myself in the hand, yes.
 16 You know, did -- and, obviously, I'm working on that
 17 because it's just unladylike. But if I get frustrated
 18 and, you know, I can't, let's say -- I'm going to just
 19 make up an example, I'm having difficulty getting a
 20 uterus out of a vagina, would I cuss at the uterus,
 21 maybe.
 22 Q. Fair enough.
 23 But you wouldn't direct it at the individual
 24 staff members?
 25 A. No.

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1 A. I don't know.
 2 Q. Fair enough.
 3 A. I just try and look at the person.
 4 Q. True. Are you expecting any hires in the
 5 near future at your LLC?
 6 A. No. I'm planning on laying off people and
 7 cutting medical insurance.
 8 Q. Okay.
 9 A. Which is unfortunate.
 10 Q. Any further attempts at going elsewhere for
 11 privileges on the horizon?
 12 A. Nobody is going to take me.
 13 Q. Okay.
 14 A. Not damaged like this.
 15 MR. DAYHUFF: Okay. I'm nearly done. I'm
 16 going to look through my notes. If you want to take two
 17 minutes, you can, or feel free to sit.
 18 (A recess transpired.)
 19 BY MR. DAYHUFF:
 20 Q. You have not been on any other medical staff
 21 other than ARMC and in your role at Bamberg, right? You
 22 were on their medical staff? Were you on their medical
 23 staff, Bamberg?
 24 A. I don't know. I had some sort of privileges,
 25 but I don't know what they're called. They're not

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1 courtesy privileges, they're something like paid
 2 proprietary privileges or I don't know.
 3 Q. So you had privileges from Bamberg and you
 4 had them from Aiken. Any other hospital where you had
 5 privileges?
 6 A. At my residencies.
 7 Q. Okay. Have you ever been subject to any
 8 other peer review actions other than the ones we're here
 9 about?
 10 A. Never.
 11 MR. DAYHUFF: All right. Any questions for
 12 this witness?
 13 MR. DICK: I have a few.
 14 EXAMINATION
 15 BY MR. DICK:
 16 Q. All right. Dr. Muniz, you talked with Travis
 17 about a whole lot of hospitals. I think you said
 18 University, Doctors, Trinity, Richland or Lexington.
 19 A. Lexington.
 20 Q. Conway, Carolina Pines or something?
 21 A. Baptist.
 22 Q. Baptist.
 23 A. Carolina Pines was a --
 24 Q. Locum tenens?
 25 A. Locum tenens.

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1 switching the two. I got them backwards.
 2 Okay. So you have privileges where or the
 3 courtesy or the proprietary?
 4 A. I had privileges at Bamberg, but they closed
 5 it.
 6 Q. Okay.
 7 A. And I applied to Barnwell because that's part
 8 of the Tri-County project. And that's a little dinky,
 9 itty-bitty, teeny-weeny hospital, too.
 10 Q. So you've also applied to Barnwell?
 11 A. Right.
 12 Q. Gotcha. Any other hospitals aside from, I
 13 guess, you named now Savannah -- I think you said
 14 Savannah to Travis, I'm not sure. -- Illinois and
 15 Barnwell. Any other hospitals you can think of that
 16 you've applied to?
 17 MR. DAYHUFF: Do you have one in mind? You
 18 could ask about it specifically.
 19 MR. DICK: No.
 20 THE WITNESS: I think that's it. Oh, the
 21 V.A.
 22 BY MR. DICK:
 23 Q. Okay. You haven't heard anything from the
 24 V.A.?
 25 A. Huh-uh.

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1 Q. Okay.
 2 A. Alabama.
 3 Q. Alabama.
 4 A. And Springfield.
 5 Q. And Springfield.
 6 A. I tried to go home.
 7 Q. Okay. That was in Illinois?
 8 A. Yes.
 9 Q. Are there any other hospitals that you
 10 applied for privileges at as of now?
 11 A. I went down and I interviewed with a lady in
 12 Savannah who wanted to hire me, and I did meet with both
 13 of those hospitals. But I was not offered or invited to
 14 fill out an application. The one hospital was just,
 15 "No, you've had privileges pulled. That's it. You
 16 can't apply."
 17 And the other one was like, "We're not
 18 touching this. We've heard about this case." Which was
 19 kind of creepy. And that was it.
 20 Q. Okay. And what about -- I know you said
 21 Barnwell, but have you applied to Bamberg, also?
 22 A. I already had privileges at Bamberg.
 23 Q. Wait.
 24 A. I applied at Barnwell.
 25 Q. You've applied to Barnwell. Wait. I may be

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1 MR. DICK: Let's, I guess, mark this
 2 Plaintiff's Exhibit 1.
 3 (PLF. EXH. 1, OB/GYN Call Schedule Memo,
 4 ARMC001956, was marked for identification.)
 5 BY MR. DICK:
 6 Q. Take a look at it. Read over it.
 7 A. Okay. Well, it's certainly creative, isn't
 8 it? Okay.
 9 Q. Okay. Do you recall the incident that's
 10 discussed in Plaintiff's Exhibit 1?
 11 A. Uh-huh.
 12 Q. Have you ever seen this document before?
 13 A. No. I was never given this document by the
 14 hospital at all.
 15 Q. Okay. I guess, can you identify what that
 16 Plaintiff's Exhibit 1 is?
 17 A. Apparently this is some sort of a letter that
 18 was written by Terri Ergle to I don't know who because
 19 it's not sent to anybody in particular. The date is
 20 handwritten. I remember -- I don't know about the date,
 21 but I do remember this incident. But I think the bottom
 22 half is a little bit creative.
 23 Terri Ergle was consistently not professional
 24 with my staff and was a little bit heckling, I guess is
 25 the word I would use. And it was very frustrating to my

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1 staff. And Dr. Besson had an objection to the call
2 schedule because she could gone gyne only, and she
3 wanted to be on call one in seven, which means that she
4 would be on call with the same doctor every single day
5 because there were seven of us. So it would be like the
6 same day. You know, like if you put her on Mondays,
7 then she would always be on Mondays and she would always
8 be with Doctor A.

9 And I had talked to Dr. Boehner about it. We
10 were pulling call at the time. And he was very
11 frustrated with it and particularly with Dr. Besson.
12 They have a history. And he suggested that we stack it
13 so it would be like one in five and one in seven and
14 one -- you know, so that it would stack out that she
15 would be rotating with different people.

16 But one in seven doesn't make sense because
17 when you would map it out, you would wind up being
18 essentially with two doctors. It turned into this very
19 complex, like, mathematical equation. And he was mad.
20 Terri was mad. I was frustrated. Terri kept on calling
21 and yelling at Marla, you know. It got ridiculous.

22 I called Terri and basically told her that
23 she needed to turn the schedule over to Dr. Boehner
24 because I wasn't going to get involved. And I was very
25 upset with the way she kept on. And it wasn't the first

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1 letter, otherwise, I probably would still be mad. But,
2 no, I mean, once she apologized to me, I was fine and,
3 you know, the schedule had been turned over to
4 Dr. Boehner and so I lived happily ever after.

5 Q. Now, in that letter, she says that you used
6 multiple curse words during your phone conversation with
7 her. Is it possible that you used curse words during
8 that conversation?

9 A. I don't think so. I mean this is like a
10 sailor or a Marine.

11 Q. Does she allege in there anywhere that you've
12 directed any of this alleged curse words at her, at
13 Terri Ergle?

14 A. No. She says that I was talking about
15 Dr. Besson being a blank blank blank, and she couldn't
16 have her way because she was a blank blank blank blank
17 blank blank blank.

18 Q. Okay.

19 A. And that Dr. Besson should do this and
20 Dr. Besson should do that and that I won't to talk to
21 blank again. You know, I never talked to Cindy about
22 the schedule ever. "Dr. Muniz told me that she would
23 not talk to that blank blank because she did not want
24 her car keyed again."

25 Q. Did you say that? Answer yes or no.

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1 time that she had had -- it was a routine problem
2 between her and the way she talked with my staff. And I
3 filed a formal complaint after this, you know, with K.D.
4 about the professionalism of K.D.'s staff, particularly
5 Terri Ergle, and I'll try and look and see if I've still
6 got the letter.

7 And I don't know if anything was done -- or
8 if anything was done about it or if Terri was
9 reprimanded or corrected in any way. I would have to
10 assume this would be her response to my grievance. But
11 did I call her a blankity blankity blank blank blank
12 blank blank blank blank blank blank blank blank blank
13 blank, no.

14 Q. Okay. Were you ever contacted by a K.D. or
15 did anyone ever talk to you about this letter written by
16 Terri Ergle?

17 A. I was never talked with about this letter at
18 all. But the next time I went up and, you know, talked
19 to Terri and I asked her if she had gotten the schedule
20 from Dr. Boehner, she told me that she had and she
21 apologized. And we were actually kind of cool after
22 that.

23 Q. Okay. So did anyone ever reprimand you for
24 anything you said to Terri Ergle?

25 A. No. I didn't even know she wrote this

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1 A. I'm going to go with no. "Dr. Muniz told me
2 that --" "She told me that I could call her and then
3 maybe my car could get keyed this time." She told me
4 that I could call her and --" oh, Terri saying -- no,
5 Terri -- okay. No. Terri is not saying that I'm
6 directing this toward her. She's saying that I am
7 saying nasty things about Dr. Besson.

8 Q. Okay.

9 A. It's half true.

10 Q. Half true? And what would the true part be
11 about that?

12 A. The true part is that she did call us
13 multiple times regarding call schedule and that
14 Dr. Besson did want to do it one in seven. And I don't
15 know if she spoke with Dr. Boehner not. But I called
16 Dr. Boehner and asked him to what to do and asked him to
17 just take over the schedule.

18 Q. Okay. And all those inflammatory remarks in
19 there that Terri alleges you made about Cindy Besson, do
20 you know if you made those remarks, or do you remember
21 making those remarks?

22 A. No. I don't cuss like a sailor like this. I
23 mean, I've cussed. I'm not saying that I haven't
24 cussed, but I don't think I would go on and on and on
25 and use the same three cuss words over and over and over

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1 and over again.

2 Q. Okay. All right. You can put that down.

3 Do you know if having your privileges -- or I

4 guess when you seek privileges at another hospital and

5 those -- that credentialing request is denied, do you

6 know if that's a reportable event to the National

7 Practitioner Database?

8 A. I believe that it is.

9 Q. Okay. So that would be bad?

10 A. It's very bad.

11 Q. Okay. Did you pull any of your applications

12 to any of the hospitals that we've previously listed in

13 an effort to avoid being reported to the National Data

14 Bank for having your credential request denied?

15 A. No. The reason I tabled University and

16 Doctors Hospital was because we weren't getting the

17 data. And by the time it got jammed up, like how we

18 have previously discussed ad nauseam, with the other

19 hospitals, they were actually being very, very kind, I

20 think, and professional.

21 For example, Conway. They didn't offer me

22 the application. They wanted to meet me first because

23 they knew that there was a situation. And the gentleman

24 even told me that. He says, you know, "We don't give

25 the people the applications unless we know they're going

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1 SIGNATURE OF DEPONENT

2

3 I, the undersigned, MARGO J. HEIN-MUNIZ, M.D.

4 , do hereby certify that I have read the foregoing

5 deposition and find it to be a true and accurate

6 transcription of my testimony, with the following

7 corrections, if any:

8 PAGE LINE CHANGE REASON

9

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MARGO J. HEIN-MUNIZ, M.D. DATE

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1 to get privileges because we don't want to damage your

2 career any more than it's been damaged." And I

3 appreciated that.

4 And it was the same way with Baptist when I

5 talked to the head of their credentialing committee.

6 She said, "Listen, you know, before you go any further,

7 you know, you need to know that the probability of you

8 being accepted until this thing is resolved is highly

9 unlikely and that'll go on your National Practitioner

10 Database." And she was the first one to tell me about

11 that, and then Conway was the second one to tell me

12 about that.

13 And then the Savannah River -- or the

14 Savannah lady -- I mean, we just went and talked to the

15 hospitals, and I was not offered to apply to either one

16 of them, so -- and actually same thing with Alabama.

17 So most of these places, I didn't get the

18 application to even fill out because once they found

19 out, you know ...

20 MR. DICK: Okay. I'm done.

21 MR. DAYHUFF: No further questions.

22 (DEFT. EXH. 4, Consent Confidentiality Order,

23 was marked for identification.)

24 (The deposition concluded at 10:13 p.m.)

25

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1 CERTIFICATE OF REPORTER

2

3 I, Sheri L. Byers, Registered

4 Professional Reporter and Notary Public for the

5 State of South Carolina at Large, do hereby certify:

6 That the foregoing deposition was

7 taken before me on the date and at the time and

8 location stated on page 1 of this transcript; that

9 the deponent was duly sworn to testify to the truth,

10 the whole truth and nothing but the truth; that the

11 testimony of the deponent and all objections made at

12 the time of the examination were recorded

13 stenographically by me and were thereafter

14 transcribed; that the foregoing deposition as typed

15 is a true, accurate and complete record of the

16 testimony of the deponent and of all objections made

17 at the time of the examination to the best of my

18 ability.

19 I further certify that I am neither

20 related to nor counsel for any party to the cause


21 pending or interested in the events thereof.

22 Witness my hand, I have hereunto

23 affixed my official seal this 29th day of August,

24 2011, at Columbia, Richland County, South Carolina.

25

 Sheri L. Byers

Sheri L. Byers,
Registered Professional Reporter,
Notary Public
State of South Carolina at Large
My Commission expires:
January 5, 2014

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